

The University of Chicago

OCCUPATIONS OF THE LOWER CLASSES
IN ROMAN SOCIETY
AS SEEN IN JUSTINIAN'S *DIGEST*

A DISSERTATION SUBMITTED TO THE FACULTY OF
THE DIVISION OF THE HUMANITIES IN CANDIDACY
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF LATIN LANGUAGE AND LITERATURE
1936

By
MIMA MAXEY

THE UNIVERSITY OF CHICAGO PRESS
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PREFACE

THE STUDY

The discussions given on the following pages are the result of a study of Justinian's Digest undertaken to see what contribution it offers to our knowledge of the occupations of the humble man in the Roman world. It arose from a conviction that there was a large amount of incidental information in the citations of jurists there that offered illuminating commentary on Roman life and that it had been little used in previous studies of occupations.

The Digest has proved to be a source rich in information about the work that was done in the Roman world. This information appears largely in adjudications in disputes over inheritances and legacies and in suits of one sort or another. It is derived also from illustrations that jurists add to make clear the point that they are discussing. In addition to these sources, information may be gained from the background upon which some discussion is imposed, a thing accepted and acknowledged in the ordinary situations of life. Since the information is given in such casual fashion, one would expect it to vary in importance, and this in fact happens. A large number of occupations are mentioned in a quite colorless context. Frequently this casual mention is the only occurrence of the particular occupation and we have almost nothing in the light of which the nature of the work can be understood. On the other hand, just this mere mention sometimes indicates basic work of the world of the day, and the very paucity of information shows how completely that business was woven into the pattern of daily life. Other occupations are discussed in a fashion that affords some information. In some cases this is entirely in accord with information gained from other sources. At times additional information is gained, rounding out and strengthening the outlines of the previously known picture. At times the new information is such that it brings a virtual rewriting of the story of that occupation in the light of this new contribution. At times the new facts are entirely on a phase of the subject not

previously discussed, and so a new chapter is added on that subject.

Those occupations that required the investment of capital, business, and commerce in all its phases have been excluded from this discussion. Professions, government service, and service in the army also have been excluded. The occupations included, accordingly, are those dealing with the actual work necessary that the life of the day might go on, those dealing with food and its production, clothing, housing, certain amenities of life, and transportation of men and things.

The study has been made under the direction of Professor Gordon J. Laing. To him the author is deeply indebted for advice on procedure, searching criticism, and constant encouragement. To Professor Henry W. Prescott, who has read the manuscript and has been both generous and gracious in giving assistance, the author is likewise indebted.

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INTRODUCTION

THE ECONOMIC BACKGROUND

Any code of laws affords not only a background of law in the light of which specific situations can be judged and some indication of the underlying principles of justice that prevailed when and where it was pertinent, but also affords both a general picture of the social and economic situation and specific information about various phases of the world of that day. A study of Justinian's Digest yields a well rounded picture of the economic conditions prevailing in the Roman world from the time of the contributing jurists to that of Justinian, offering both specific information with regard to the occupations pursued and also general information about the structure of which they were a part. This latter information is in part presupposed - familiarly referred to as a situation of which every one was cognizant. In part it is indicated by specific facts that can be interpreted only in a particular setting and which, therefore, indirectly furnish evidence for that setting.

The information that the Digest gives, accordingly, presents the underlying economic situation. The world of the day had passed the period when all industry was done in the household for the household. There are, to be sure, many instances that show just that state of affairs (Scaevola, Dig. xxxiii. 7. 27), but in addition to that we find work done in the household for gain (e.g. Ulpian, Dig. xiv. 4. 1. 1; Ulpian, Dig. xxxiii. 7. 12. 12), and shops and other organized businesses of varying size existing solely as income-producing agencies (e.g. Scaevola, Dig. xxxvi. 1. 80 (78). 12; Ulpian, Dig. xiv. 3. 5. 9).

That the outstanding feature of this economic situation was slavery is well known. The extent to which the work of the world was done by slaves and the picture that the Digest presents of the prevalence of the ownership of slaves in large numbers and small, among the wealthy and among those that had little wealth, in the city and in the country, make it difficult to believe that the number of slaves was rapidly decreasing during the period cov-

ered by the jurists cited and that the ratio of slaves to free citizens was as low as historians compute it.

The ownership of slaves was found among masters of widely different economic status. Perhaps the most surprising master that is found is the colonus, the peasant farmer. The colonus himself was a hardworking freeman, who, when slave labor failed, became the tiller of the soil and performed the tasks formerly discharged by slaves. In the Digest we find a case in which he had a slave of his own and we judge that the slave had a long, hard day's work (Ulpian, Dig. ix. 2. 27. 9). The slave of a man of such status was probably one who knew hard labor with few features to ameliorate his lot.

In larger numbers than is true in the case of this man, so poor himself that he could own but one slave to alleviate his own toil, we find the owner with a number of slaves who rendered service in his home, either in the city or country (Alfenus Varus, Dig. L. 16. 203; Ulpian, Dig. xxxiii. 7. 8. 1). Slaves from a ménage of this sort apparently had the most pleasant relations with the master and we most frequently find manumission occurring among slaves of this kind.

In the luxurious praedium urbanum we find large retinues of slaves. They were certainly the property of men of great wealth, men rich enough to have more than one residence, leaving each manned even in their absence (Alfenus Varus, Dig. L. 16. 203). So impersonal was the relationship between master and slave that the slaves were considered part of the equipment of the property and were part of the legacy when it, with its equipment, passed to a legatee (Ulpian, Dig. xxxiii. 7. 12).

The praedium rusticum also was fully manned with slaves, and these slaves also were considered part of the equipment of the estate and not to be alienated from it when it was transferred with its equipment. These praedia, however, were economically quite a different thing from the luxurious residences maintained for the pleasure of the owner, and the justification for the retention of the slaves on the estate may be made on strictly economic grounds, for these praedia were really huge economic producing agencies (Ulpian, Dig. xxxiii. 7. 12). Their income was derived from various products. Those that are especially evident in the Digest are fish, fowl and larger game, and wool products. The slaves of such an estate were an essential part of the eco-

onomic unit.

Slaves were found belonging to masters, also, who maintained commercial organizations that furnished either services or finished products to the community. Foremost among these were the bakers. They baked bread not only for the general public who preferred to buy from a baker rather than to operate their own ovens (Ulpian, Dig. xiv. 3. 5. 9), but also for government distribution through the annona (CIL VI. 1958). Those who furnished skilled services were the fullers, sarcinatores, operators of baths, and barbers.

In addition to owners who had slaves for the maintenance of their own business and for personal service, we find owners who let slaves of varying degrees of skill to others. The latter apparently preferred to hire specific services rather than to own their own slaves. The representation made by the owner as to the skill of the slave so let (Ulpian, Dig. ix. 2. 27. 34), and the contract under which he was let, for example, whether he was to work on a scaffold or not (Ulpian, Dig. xiii. 6. 5. 7), made cases of such sort frequently matters for adjudication.

In this world in which slavery played so large a part, we find in occupations of the humble not only slaves but some freedmen and a fairly large number of poor freemen. However, whatever the nature of the ownership of slaves, they are found fulfilling the basic needs of the world of their day. The more essential the service that life might go smoothly, the more fully we find slaves constituting the personnel of the occupation.

Slaves.--In every occupation concerned with food we find slaves serving. In most cases the slaves were kept to provide and serve food for the master and his family. In some instances of this sort a corps of slaves, trained or in training, was kept on each estate that service might be at hand when the master came (Alfenus Varus, Dig. L. 16. 203). In other instances the master took with him not only slaves to prepare and serve food but others to provide it, fishermen being an example (Scaevola, Dig. xxxiii. 7. 27). Such a retinue upon occasion travelled with the master even outside of Italy (Alfenus Varus, Dig. L. 16. 203). In addition to these slaves who prepared and served food for the master, on large rural estates there were found numbers of such slaves whose function was to prepare and serve food for the groups of slaves working on the estate. These slaves as well as those doing

the work of the estate were regarded as part of the instrumentum of the estate and when there was a transfer of the estate with its instrumentum they went with it (Ulpian, Dig. xxxiii. 7. 12). The slaves and their functions on such estates often varied from those on the estate on which the master resided and also from one estate of this type to another. For example, some of these estates had a pistor who probably served as both miller and baker (Ulpian, Dig. xxxiii. 7. 12. 5). Others had a separate miller, while the baking was done by women with no distinctive title (Ibid.). On others an ordinary farm laborer did the grinding for the women (Paulus, Dig. xxxiii. 7. 18. 5). Beside these slaves who served other slaves on large rural estates, there were slaves who were maintained for their contribution to the cash return from the estate, such as fishermen, fowlers, and hunters (Ulpian, Dig. xxxiii. 7. 12. 12). There is evidence of effective organization of such slaves in the person of a praepositus piscatorum (Marcianus, Dig. xxxii. 65). Both these overseers and the slaves who did the work were part of the instrumentum of these estates, inalienable from the estate when it was transferred with its instrumentum. Finally in the group concerned with food we find the slaves who worked in organized businesses, such as bakeries. There we find them performing various duties, some actually serving as bakers (Pomponius, Dig. xxxiii. 7. 15), others keeping fires going (Ulpian, Dig. xxxix. 2. 24. 7), others delivering bread and taking orders for future deliveries (Ulpian, Dig. xiv. 3. 5. 9). In short, slaves are found in every sort of place concerned with food supply and service.

The situation in regard to food is exactly duplicated by that concerned with clothing. We find spinners and weavers and menders producing and caring for the clothing for the household (Alfenus, Dig. xxxiii. 7. 16. 2; Gaius, Dig. xv. 1. 27). On large estates we find slaves provided for production of woolen cloth, first shepherds and shearers of sheep, women to keep the fire going for washing the wool after shearing and for the fullers, spinners, weavers, and fullers to dress the finished cloth - all part of the instrumentum of such an estate (Ulpian, Dig. xxxiii. 7. 12. 6). The fulleries alone of such organizations, located near springs on the estate, were large enough to give rise to a complaint from the man on the neighboring estate because the water used in washing ran down on his land (Ulpian, Dig. xxxix. 3. 3).

In addition to these huge estates where the entire work was done from raising the sheep to completing the cloth, we find very unpretentious business ventures in the hands of slaves, such as a shoe shop. In one case a shoemaker was left to a person by will with the explicit statement that he was to support the legatee by his trade (Scaevola, Dig. xxxvi. 1. 80 (78). 12). In addition to these little shops operated by a single slave, we find large establishments owned probably by a freeman with slaves doing the work. Such were the establishments of fullers and menders (Paulus, Dig. xlvii. 2. 83 (82)). In all these trades the work was sufficiently skilled to require apprenticeships. When the master was absent for any extended travel, the shops would be left under one of the slaves who served as procurator or institor (Ulpian, Dig. xiv. 3. 5. 10), another illustration of the extent to which confidence was placed in slaves, a thing so apparent throughout the Digest.

The field of personal service was so completely the field of slaves that no case appears in which such service was performed by a freeman. From this field came the largest number of freedmen in the fields considered because the slaves in that service were close to the master, attracted his notice, and from the very intimacy of their service often aroused feelings of affection or gratitude. The nurse, the attendant of the schoolboy, the caretaker of the boy (Ulpian, Dig. xl. 2. 13), the valet (Ulpian, Dig. xxxviii. 2. 14. 7), the nomenclator (Ulpian, Dig. xxxviii. 1. 7. 5), are repeatedly mentioned as freed either during the life of the master or by will. In one case we are told that the master freed a nomenclator with a contract that he would continue to serve in that capacity after attaining his freedom (Venuleius, Dig. xl. 12. 44). That situation probably prevailed in many cases when the slave was freed during the lifetime of the master. In lieu of freedom, the master sometimes made some humane provision for a slave after his death. For example, one master left his attendants (pedisequi) to care for a temple with an injunction to his heir to give them a monthly allowance of food and a yearly supply of clothing (Scaevola, Dig. xxxiv. 1. 17). All these instances occurred in the case of slaves whose service was rendered directly to the master or members of his household.

A large number of slaves in domestic service were engaged in caring for the house of the master, many of them serving in

highly specialized tasks in the luxurious villas. While many of them had pleasant work, often in tasks that demanded skill and training, their relationship with the master was a remote one. They were regarded as part of the instrumentum of the estate and were transferred with it when it with its equipment passed into the hands of a new owner (Ulpian, Dig. xxxiii. 7. 12).

Some slaves in domestic service were kept on the large estates to care for the needs of the retinues of slaves there. Barbers serving slaves are particularly mentioned in this class (Ulpian, Dig. xxxiii. 7. 12. 5).

Another group of these slaves in service was attached not to an estate, but to some sort of business such as an inn (Ulpian, Dig. iv. 9. 1. 5) or bath (Paulus, Dig. xxxiii. 7. 13. 1) or bakery (Paulus, Dig. xxxiii. 7. 18. 1). One appeared serving as steward in the cabin of a boat (Ulpian, Dig. iv. 9. 1. 3). The lot of these slaves was often unspeakably hard. They, too, were transferred not as individuals but as part of the instrumentum of the place in which they served (Paulus, Dig. xxxiii. 7. 18. 1). For the most part the patrons of the places where they served were warned not to intrust their belongings to slaves of that sort, though some of them, as the steward in the cabin and the baker's delivery boy, were in positions of responsibility and were to be trusted.

Work in the field of transportation was not preempted by slaves. In the case of certain occupations it is difficult to ascertain the status of the workman and the evidence of inscriptions and literary sources has to be sought before any assignment can be made. Two occupations remain apparently exclusively filled by slaves. One of these is that of the stable boy who was either in the service of a private owner in city or country or who, in the service of an inn, took care of the horses of travellers who patronized the inn (Alfenus, Dig. ix. 1. 5; xxxii. 60. 1). Another is that of the muleteer, who appears in various capacities. In many cases he was engaged in driving mules for his master. In some instances his work was on the rural estate, in others in town. In one case in town muleteers were driving loaded wagons up the Capitoline Hill (Alfenus, Dig. ix. 2. 52. 2). It was probably a muleteer who drove the sleeping carriage of the wife of the master (Scaevola, Dig. xxxiv. 2. 13). In addition to these muleteers who drove for their owners, others were let out by their owners to

drive other people's mules (Ulpian, Dig. ix. 2. 27. 34). This is another instance of the acquiring of income by letting the services of slaves. A third sort of service is indicated in the case of the muleteer engaged in commercial transportation of passengers and their luggage. The muleteer in that case was an authorized agent (institor) of the master, placed in charge of a business (Labeo, Dig. xix. 2. 60. 8).

In agriculture the work was done for the most part by slaves. The passages dealing with the work of slaves in agriculture give much information about the general situation of the times. There were certainly small farms from which the master got the produce to supply his own household. He may have lived on the farm, or he may have lived in the city and used the farm only as a source of supply. A slave with general functions is found working on such a small estate (Alfenus Varus, Dig. L. 16. 203). On the other hand not only are there large numbers of slaves with highly specialized tasks, regarded as part of the instrumentum of the estate, a situation which in itself indicates the large domain, but there are many references to the saltus, the great stretches of uncultivated grazing lands, on which were kept sheep and which were guarded by more than one saltuarius (Ulpian, Dig. xxxiii. 7. 12). The raising of swine, which we know was important for meat supply, is referred to in a discussion as to ownership when wolves have fallen upon the swine, the swine-herd was unable to cope with the wolves, and the rescue was effected by a neighbor with dogs (Ulpian, Dig. xli. 1. 44).

The physical character of the agricultural land is indicated by repeated discussions of drainage on the one hand and irrigation on the other. The necessity for drainage indicates in the first place reclamation of swamp land such as the Pomptine Marshes. There are more references to the draining off of rain water (Alfenus, Dig. xxxix. 3. 24. 2). These furnish evidence of necessity for conservation of soil and crops during the rainy season and in the neighborhood of mountains. It is very evident, on the other hand, that irrigation trenches were provided and maintained to tide over the season of heat and drought (Ulpian, Dig. xliii. 20. 1. 11).

In addition to control of floods and drought, it is clear that provision was made in every period for keeping up the fertility of the soil. Even on the estates that had extensive grazing

grounds to which stock was sent, animals were kept on that portion of the land under cultivation solely for the upkeep of the land itself and those animals with the slaves that cared for them were part of the instrumentum of the estate (Alfenus, Dig. xxxii. 60. 3).

Although agriculture was preeminently the business of the Roman world and far the largest number of slaves were concerned with it and with domestic service, there were other businesses in which they were engaged. The business was owned as a rule by a freeman. In many cases, if the owner did not manage it himself, a freeman would do that too. Actual labor connected with the business and especially menial labor would be done by slaves. Work of that sort in mills and bakeries, fulleries, mending establishments, and about inns and shops has already been mentioned. There were also bathing establishments with retinues of slave attendants (Ulpian, Dig. iii. 2. 4. 2). Barber shops had slaves serving both in menial tasks and as barbers too in all probability (CIL XV. 7172). The slave shoemaker with his little shop was previously mentioned. A slave plasterer also appears (Ulpian, Dig. xiii. 6. 5. 7). It is possible that he was merely a trained slave on an estate, though he may equally well have been connected with an urban establishment.

Freedmen.--This very widespread service of the slave on all sorts of estates, in urban businesses, in general and highly specialized roles reveals how completely his labor was utilized in meeting the basic needs of the world of the day. It is noteworthy, too, that the tasks were performed by slaves rather than freedmen. In a few cases we find slaves freed under contract to continue serving their patron in the same capacity in which they had served him when he was their master. Inscriptional evidence, too, shows freedmen in these occupations. In the Digest, however, in spite of the frequency of the granting of freedom both by will and in the lifetime of the owner, one is impressed by the few instances in which freedmen appear in this sort of work. We are forced to the conclusion that, on the whole, slaves were freed because they had showed skill and ability in capacities higher in the social scale than this sort of occupation, for example, professions or administration or commerce.

Freemen.--The small freeman, on the other hand, appears in sufficiently large numbers to convince one that not all poor freemen lived on the dole. One is impressed in many cases by in-

dications of extreme poverty, but the reasonable fairness of his world impresses one too. We find many freemen who were fishermen (Ulpian, Dig. ix. 2. 29. 3; Neratius, Dig. xxxxi. 1. 15). Three kinds of evidence attest their poverty. In one case money was advanced to a fisherman to buy equipment (Scaevola, Dig. xxi. 2. 5). In another case a person who had gone to the city to dispose of the catch of a group of fishermen was directed to complete his business and return at once without lingering in the city to participate in the dole there (Callistratus, Dig. L. 11. 2). The third kind of evidence is concerned with the safeguarding of the right of fishermen to build huts on the shore and retain the right to them as long as they occupied them. This situation appears so frequently and is discussed from so many angles that it must indicate that that sort of housing was usual, and if so the men must have been poor (Marcianus, Dig. 1. 8. 6; Neratius, Dig. xxxxi. 1. 14).

The incident in regard to marketing fish in the city suggests some sort of commercial organization among the men. It is possible that this was a collegium and the man who went was elected as a representative of the group.

Freemen are found working as fowlers and hunters also (Gaius, Dig. xxxxi. 1. 3. 1; Tryphoninus, Dig. vii. 1. 62). The Digest reveals little about them as they appear for the most part in suits for trespass. Such infringement of right is precisely what one would expect in the case of a poor man living in a world in which the land was owned by the wealthy and its game used as a source of income for the rich owner.

A combination of the claim for right of domain on the part of fishermen and the assumption of privileges on the land of the rich is found in a kind of squatter sovereignty in the saltus. One of the specific tasks of saltuarii was to preserve boundaries intact (Pomponius, Dig. vii. 8. 16. 1). This meant to prevent such preemption of homesites. The people who were guilty of such infringement were, again, probably poor.

Divers were probably poor freemen. The discussion of the work of divers reveals interesting situations in shipping. The boats that plied the Mediterranean were apparently too large to enter even the Tiber, to say nothing of the smaller streams flowing into the Mediterranean. The result was that cargoes were transferred at the mouth of the rivers into small vessels in which

they were transported to their destinations. In the course of the transfer the smaller boats were often overturned and the cargo went down (Callistratus, Dig. xiv. 2. 4; Ulpian, Dig. xix. 2. 13. 1, 2). It was from the rescue of goods of this sort chiefly that divers got their income.

Another freeman in about the same class as these was the agricultural worker who worked on shares with the master, either at tilling fields or raising stock. His share was apparently larger than modern sharecroppers receive, but when he is mentioned there is a connotation of poverty (Gaius, Dig. xix. 2. 25. 6).

By and large, the freemen thus far discussed were working at trades in which the capital outlay for equipment was not large, skill was not particularly high, and to some extent luck determined results. Another group appears engaged in small businesses involving some outlay for equipment and some skill. There was, for example, the itinerant barber with his chair and razors, who stopped and did business on the street, anywhere that patrons appeared. He was found not only in the city (Ulpian, Dig. ix. 2. 11), but in remote parts of the empire in places where poorer men would be found in numbers (Edict. Diocl. vii. 22). There was also the plaustrarius (Ulpian, Dig. ix. 2. 27. 33), whose stock in trade was his wagon and the animal or animals that drew it. His skill lay in loading and driving. He hauled whatever the opportunity might offer. There was also the shoemaker with a shop as well as his tools and materials for shoes and their repair. The shop might be large enough to accommodate apprentices, also free-born, who were learning the trade (Ulpian, Dig. ix. 2. 5. 3).

In addition to these humble freemen, poor, with little stock in trade, often with little skill, we find those in businesses that demanded more skill, more capital, or both. In trades concerned with food we find bakers, who probably did not do the actual work themselves but owned the business, with slave bakers doing the work (Ulpian, Dig. xiv. 3. 5. 9; Paulus, Dig. xxvii. 1. 46). There was also the pistrinarius, who probably did not own but managed a bakery (Ulpian, Dig. xvi. 3. 1. 9). In trades concerned with clothing, we find free fullers. While some of them may have had small establishments in which they did the work, again the situation was probably the same as in the case of the bakery. The freeman would own and perhaps manage the business with slaves doing the actual work (Ulpian, Dig. xiv. 3. 5. 7. 10). The build-

ing trades also contained freemen. Of these we may mention especially the superintendent of building (aedificator) (Venuleius, Dig. xlv. 1. 137. 3), the dresser of stones (lapidarius) (Tarruntenus Paternus, Dig. L. 6. 7 (6)), and the plasterer (Ulpian, Dig. ix. 2. 27. 35). The plasterer certainly did the actual work himself. It is possible, however, that his business would so expand that he would have slaves working under him also, either his own slaves, or those hired for a special piece of work. In transportation we find the cisiarius and carrucarius, who were certainly, at times at least, freemen (Ulpian, Dig. xix. 2. 13). It is possible that in this business, too, we may find the individual who drives his own cisium and the successful business man who has so enlarged his business as to have drivers working under him. We find the balneator also who had a small bathing establishment maintained by the fees paid by patrons (Ulpian, Dig. iii. 2. 4. 2; Edict. Diocl. vii. 76). Here, too, probably slaves did the necessary work about the place. We find inscriptions indicating that certain freemen were engaged in tasks that we should normally rate as service, for example, stratores and fossores (Ulpian, Dig. 1. 16. 4. 1; Tarruntenus Paternus, Dig. L. 6. 7. (6)). The Digest states that such functions were performed in the army by soldiers, and inscriptions referring to freemen may indicate that type of military service, especially as many inscriptions expressly state that the man was a soldier.

Such in brief was the economic condition of the humble man in Rome in the period covered by the citations in the Digest. It was a society in which work was done both for the bare maintenance of the man and his family and for commercial profit on a larger scale. In a world in which the dominating feature was slavery, we naturally find many slaves in the occupations of the humble man. Of freedmen there is a surprisingly small number engaged in these activities. On the other hand there is a considerable number of freemen so occupied, poor, to be sure, but managing to maintain a fairly satisfactory existence.

CHAPTER I
OCCUPATIONS CONCERNED WITH FOOD

Many of the occupations in which we find the humble man engaged in the Digest are concerned with food. Certain ones of these deal with the acquisition and provision of food stuffs; others are centered about an intermediate step in the preparation of the raw material; others are concerned with provision of food for a household or its conservation within the house; a final group has to do with cooking and serving food.

Piscator.--Of the occupations concerned with the acquisition of food, that of the fisherman is mentioned most frequently in the Digest. Piscatores were slaves,¹ freedmen,² freedwomen,³ and probably freemen in humble circumstances⁴ who engaged in fishing as a business. While fishing as sport was probably common and certainly had devotees of prominence,⁵ the frequency with which fishing as a serious occupation is mentioned in the Digest as well as elsewhere is evidence that the demand for fish for sale was great in the Roman world. It far outstripped the demand for fowl and other game. The fact that fishing and hunting are expressly mentioned as pursuits not justifying the giving of furloughs by commanders of soldiers is evidence both of fondness for fish and of the importance in the minds of the Romans of procuring an adequate supply. Macer, the author of the opinion in the Digest, quotes an earlier jurist, Paternus, as saying: "debere eum, qui se meminerit armato praeesse, parcissime commeatum dare....ad opus privatum piscatum venatum militem non mittere."⁶ Men of wealth took their own fishermen with them from place to place to supply their own needs - "an servi piscatores, qui solebant in ministerio testatoris esse et ubique eum sequi et urbicis rationibus expungebantur nec mortis testatoris tempore in praediis legatis deprehensi fuerant, legati esse videantur."⁷ Such fishermen were regarded as

¹Scaev. Dig. xxxiii. 7. 27.

²CIL VI. 29700.

³CIL VI. 9801.

⁴CIL VI. 9799.

⁵Suet. Aug. 83; Nero 30.

⁶Macer, Dig. xlix. 16. 12. 1.

⁷Scaev. Dig. xxxiii. 7. 27.

part of the retinue of personal attendants of the master. Pomponius, in making clear the utter loss of land inundated by river or sea, says that not even by fishing can right to such land be retained: "Si ager cuius usus fructus noster sit, flumine vel mari inundatus fuerit, amittitur usus fructus....ac ne piscando quidem retinere poterimus usum fructum."¹

As to the organization of the business of fishing, fishermen were ordered to go to the city to dispose of their catch. They were not to linger about the city to participate in the dole there, but must dispose of their fish quickly and return to their work: "Si quis ipsos....piscatores deferre utensilia in civitatem iusserit, ut ipsi ea distrahant, destituetur annonae praebitio....: qui confestim ubi detulerint mercem, tradere eam et ad opera sua reverti debeant."² Whether they were selling to propolae, the regular dealers in fish, or were selling independently to the customer we do not know. We have indication of a distribution organization in a reference to a slave placed in charge of the actual slave fishermen. This person was not technically regarded as a negotiator as Marcianus tells us: "cubicularios vel obsonatores vel eos, qui piscatoribus praepositi sunt, non videri negotiationis appellatione contineri."³ So great was the pressure on the market or so great the gambling spirit of the ancient Romans that contracts were made for the future catch of fishermen: "veluti cum futurum iactum retis a piscatore emimus....nam etiamsi nihil capit, nihilo minus emptor pretium praestare necesse habebit."⁴ Fishermen were organized into collegia.⁵ Frequency of inscriptions referring to these collegia leads one to believe that these were large organizations.

Fishing in streams and lakes was common.⁶ In the Digest, however, salt water fishing is far more prominent.⁷ There fishing in boats⁸ and with dragnets - "everriculum (quod Graece σαγίς γίγνεται)"⁹ - was usual. The boats of the fishermen were apparently

¹Pompon. Dig. vii. 4. 23.

²Call. Dig. L. 11. 2.

³Marcian. Dig. xxxii. 65.

⁴Ulp. Dig. xix. 1. 11. 18.

⁵CIL V. 7850; VI. 1872; 29701; 29702.

⁶Marcian. Dig. 1. 8. 4. 1; Proc. Dig. xviii. 1. 69; Ulp. Dig. xliii. 14. 1. 7; Idem, Dig. xlvii. 10. 13. 7.

⁷Ulp. Dig. xliii. 8. 2. 9.

⁸Dig. ix. 2. 29; xxxiii. 7. 17; xlix. 15. 2.

⁹Ulp. Dig. xlvii. 10. 13. 7.

frail, as one judges not only by the word applied to them, "nau-cellas, quae piscium capiendorum causa comparatae sunt,"¹ but also by the fact that if commandeered in time of war, they, with pleasure craft, did not have to be returned to their owners when the war was over: "Navibus longis atque onerariis propter belli usum postliminium est, non piscatoriis aut si quas actuarias voluptatis causa paraverunt."²

Fishing boats fell into difficulties of various sorts. One citation tells of a boat driven into the nets of other fishermen. If the fishermen were at fault, they had to make good the loss of the nets but not the possible catch of fish. Ulpian's report of the case is as follows:

Item Labeo scribit, si, cum vi ventorum navis impulsae esset in funes anchorarum alterius et nautae funes praecidissent, si nullo alio modo....explicare se potuit, nullam actionem dandam. Idemque Labeo et Proculus et circa retia piscatorum in quae navis piscatorum inciderat, aestimarunt. Plane si culpa nautarum id factum esset, lege Aquilia agendum. Sed ubi damni iniuria agitur ob retia, non piscium, qui ideo capti non sunt, fieri aestimationem, cum incertum fuerit, an caperentur. Idemque et in venatoribus et in aucupibus probandum.³

In another citation the governor of a province was instructed to take measures to prevent fishermen from luring vessels into danger by showing a light on their boat at night that would be mistaken for the light of a harbor - "Ne piscatores nocte lumine ostenso fallant navigantes, quasi in portum aliquem delaturi, eoque modo in periculum naves et qui in eis sunt deducant sibi execrandam praedam parent, praesidis provinciae religiosa constantia efficiat."⁴ The suggestion is that such things had been done for the resulting booty. This is the only derogatory remark about fishermen that appears in the Digest if we may consider another citation a reference to the human weakness of the fisherman for good equipment rather than to any culpable tendency on the part of an individual to make inroads on another person's money. This citation is: "Nec dubitabis, si piscatori erogatur in apparatus plurimum pecuniae dederim, ut, si cepisset, redderet."⁵

If this last citation refers to fishermen who were free-men, as it very well may, it suggests poverty on the part of the

¹Marcian. Dig. xxxiii. 7. 17. 1.

²Marcell. Dig. xlix. 15. 2.

³Ulp. Dig. ix. 2. 29. 3.

⁴Ulp. Dig. xlvii. 9. 10.

⁵Scaev. Dig. xxii. 2. 5.

fishermen.¹ Of this hints are found elsewhere. One fishing in the sea was permitted to build a hut on the shore in which to live - "In mare piscantibus liberum est casam in litore ponere, in qua se recipiant."² Such a building was his only while it stood and was occupied by him. When he had left or it had fallen into decay, the spot was likewise available for the next person who took it over. Such building might require the consent of the praetor and could not be done to the disadvantage of another person. Opinions on this point were given by several jurists. Marcianus says: "In tantum, ut et soli domini constituentur qui ibi aedificant, sed quamdiu aedificium manet: alioquin aedificio dilapso quasi iure postliminii revertitur locus in pristinam causam, et si alius in eodem loco aedificaverit, eius fiet."³ Neratius writes in the same tenor:

Quod in litore quis aedificaverit, eius erit..... Illud videndum est, sublato aedificio, quod in litore positum erat, cuius condicionis is locus sit, hoc est utrum maneat eius cuius fuit aedificium, an rursus in pristinam causam reccidit perindeque publicus sit, ac si numquam in eo aedificatum fuisset. Quod propius est, ut existimari debeat.⁴

Papinianus's opinion is as follows:

Praescriptio longae possessionis ad optinenda loca iuris gentium publica concedi non solet. Quod ita procedit, si quis, aedificio funditus diruto quod in litore posuerat (forte quod aut deposuerat aut dereliquerat aedificium), alterius postea eodem loco extracto, occupantis datam exceptionem opponat.⁵

Pomponius is the author of an opinion that aims at protecting the interests of the public: "Quamvis quod in litore publico vel in mari extruerimus nostrum fiat, tamen decretum praetoris adhibendum est, ut id facere liceat: immo etiam manu prohibendus est, si cum incommodo ceterorum id faciat."⁶ Building on a river bank in this fashion was not permitted as Neratius tells us: "Qui autem in ripa fluminis aedificat, non suum facit."⁷ River banks, however, were at the disposal of fishermen for tying their boats to trees, for spreading their nets to dry, and for unloading the contents of their boats: "Riparum usus publicus est iure gentium sicut ipsius fluminis. Itaque navem ad eas appellere, funes ex

¹For a discussion of poverty among fishermen see L. Buns-
mann, De Piscatorum in Litteris Usu (Münster, 1910), pp. 20 ff.
See also Verg. Aen. xii. 518 ff.

²Gaius, Dig. i. 8. 5.

³Marcian. Dig. i. 8. 6.

⁴Nerat. Dig. xli. 1. 14.

⁵Papin. Dig. xli. 3. 45.

⁶Pompon. Dig. xli. 1. 50.

⁷Nerat. Dig. xli. 1. 15.

arboribus ibi natis religare, retia siccare et ex mare reducere, onus aliquid in his reponere cuilibet liberum est, sicuti per ipsum flumen navigare."¹

As a rule fishing rights in the sea and in streams rated as publica were free to all. Even a slough which one had fished for many years could not be preempted by him: "vel si quis, quod in fluminis publici deverticulo solus pluribus annis piscatus sit, alterum eodem iure prohibeat."² We find, however, in the transfer of an estate explicit reservation of fishing rights off another estate owned by the man who sold: "Venditor fundi Geroniani fundo Botriano, quem retinebat, legem dederat, ne contra eum piscatio thynnaria exerceatur."³

As to equipment of fishermen, the Digest mentions only boats,⁴ the dragnet,⁵ and the usual net, rete, which seems to have been used as a dragnet also.⁶ From other sources we know that hooks⁷ and lines, alone⁸ and with poles,⁹ were used. Larger fish were speared.¹⁰

The Digest mentions in one instance only a particular kind of fish caught. This was the tunny,¹¹ a fish that stood high in the esteem of the Romans.¹²

Venator.--Another group that served for the acquisition of food was that of hunters. The venator was a slave that hunted on an estate - "Si in agro venationes sint, puto venatores quoque et vestigatores et canes et cetera quae ad venationem sunt necessaria instrumento contineri."¹³ The jurists offer clear evidence that the business of the venator was important. Such slaves were in some cases responsible for the meat supply of the establishment of the master as Paulus tells us in the Sententiae: "Venatores

¹Gaius, Dig. 1. 8. 5.

²Papin. Dig. xli. 3. 45. An apparently contradictory statement with almost identical wording appears in Marcian. Dig. xliv. 3. 7.

³Ulp. Dig. viii. 4. 13.

⁴Marcian. Dig. xxxiii. 7. 17; Marcell. Dig. xlix. 15. 2.

⁵Ulp. Dig. xlvii. 10. 13.

⁶Ulp. Dig. ix. 2. 29. 3.

⁷Ovid, Ars Am. 1. 763.

⁸DS Fig. 5687.

⁹Plin. N. H. xvi. 172.

¹⁰Ovid, loc. cit.

¹¹Ulp. Dig. viii. 4. 13.

¹²P. Rhode, "Thynnorum Captura," Jahrbücher für Class. Phil. Sup. XVIII (1892), pp. 1-78.

¹³Ulp. Dig. xxxiii. 7. 12. 12.

servi vel aucupes an inter urbana ministeria contineantur dubium remansit..... Tamen si instruendarum cotidianarum epularum gratia habentur, debentur."¹ In some cases they contributed in marked degree to the revenue of the estate - "maxime si ager et ex hoc redditum habuit";² "nisi fructus fundi ex venationes constet";³ "quod etiam ad instrumenta pertinet, si quaestus fundi ex maxima parte in venationibus consistat."⁴ In the former case such slaves belonged to the familia urbana as the quotation from Paulus shows. In the latter they certainly belonged to the familia rustica. There is no doubt that venatores were found among both the slaves of the villa urbana and the villa rustica - "Venatores et aucupes utrum in urbanis an in rusticis contineantur, potest dubitari: sed dicendum est, ubi paterfamilias moraretur et hos alebat, ibi eos numerari."⁵

In later times we find the term venator applied to a free-man or freedman in a situation in which he is granted release from more onerous obligations: "Quibusdam aliquam vacationem munerum graviorum condicio tribuit..... In eodem numero haberi solent lani, venatores, victimarii."⁶ The very real contribution of the venator to the food supply is in this case recognized, as in the case of the slave venatores in earlier times. The fact that inscriptions do not appear referring to these free hunters is an indication of humble social status and lack of organization among them.

Hunting is referred to by Sallust⁷ as slaves' work. Although the evidence is perfectly good that the chase played no mean part as gentlemen's sport,⁸ any effort such as Von Kayser's to brush aside the evidence that as a serious business it was slaves' work is futile.⁹ There is no evidence that the slaves attendant upon those participating in such sport were called venatores. The one sure reference that we have calls them famuli.¹⁰ Evidence is lacking to prove that the venatores were slaves that cared for the game in a private game preserve, as Von Kayser claims.¹¹ His assertion that the term venatores included fowlers

¹Paul. Sent. iii. 6. 71.

²Ulp. Dig. xxxiii. 7. 12. 12.

³Iulian. Dig. xxi. 1. 26.

⁴Paul. Dig. xxxiii. 7. 22.

⁵Paul. Dig. xxxii. 99. 1.

⁶Tarr. Pat. Dig. L. 6. 7.

⁷Sall. Cat. iv. 1.

⁸Verg. Aen. iv. 129 ff.

⁹B. von Kayser, Jagd und Jagdrecht in Rom (Göttingen, 1894), p. 21.

¹⁰Nemes. Cyn. 298.

¹¹Von Kayser, op. cit., p. 12.

and fishermen as well as hunters¹ is based on a far too literal interpretation of the passage cited from Pliny.² A reasonable interpretation of all evidence leads to exactly the opposite conclusion.

The Digest furnishes evidence that there was hunting on the part of freemen also, not for sport primarily, but for the game itself. Such evidence appears often in adjudications of right when trespass has occurred. Paulus says: "Qui foveas ursorum cervorumque capiendorum causa faciunt, si in itineribus fecerunt eoque aliquid decidit factumque deterius est, lege Aquilia obligati sunt: at si in aliis locis, ubi fieri solent, fecerunt, nihil tenentur."³ Gaius states: "Nec interest quod ad feras bestias et volucres, utrum in suo fundo quisque capiat an in alieno. Plane qui in alienum fundum ingreditur venandi aucupandive gratia, potest a domino, si is providerit, iure prohiberi ne ingrederetur."⁴ Evidence appears in decisions involving a fructuary and an owner also - "Usufructuarium venari in saltibus vel montibus possessionis probe dicitur: nec aprum aut cervum quem ceperit proprium domini capit."⁵

The Digest offers some details as to the equipment of hunters. Nets - "rete apraria";⁶ snares - "In laqueum, quem venandi causa posueras, aper incidit";⁷ pits;⁸ and especially dogs⁹ are mentioned. From other sources we can add finer meshed nets,¹⁰ hunting spears,¹¹ and a quiver, which presupposes bows and arrows.¹²

Vestigator.--On estates on which hunting took place a slave called a vestigator appears.¹³ He had the specialized task of locating in advance animals for the hunt,¹⁴ and of blocking their escape from the area in which the hunt was to take place.¹⁵ Columella used the word vestigator in referring to a person who

¹Ibid., p. 10.

²Plin. N. H. xvi. 1. 3.

³Paul. Dig. ix. 2. 28.

⁴Gaius, Dig. xli. 1. 3. 1.

⁵Tryph. Dig. vii. 1. 62. See also Gaius, Dig. xli. 1. 5.

⁶Paul. Dig. xxxiii. 7. 22.

⁷Proc. Dig. xli. 1. 55.

⁸Paul. Dig. ix. 2. 28. See Note 3.

⁹Ulp. Dig. xxxiii. 7. 12. 12. See Note 13, p. 16.

¹⁰Verg. Aen. iv. 131.

¹¹Ibid.

¹²Verg. Aen. iv. 138.

¹³Ulp. Dig. xxxiii. 7. 12. 12.

¹⁴Apul. Met. viii. 4. (Oud. 513).

¹⁵Varro, L. L. v. 94; Apul. Met. viii. 4. (Oud. 513, 514); Serv. Aen. iv. 121.

tracked swarms of bees.¹ The word appears infrequently in Latin literature but the service rendered seems clear.

Auceps.--Another occupation that contributed to the food supply was that of the fowler. His role was probably less important than that of the fishermen and hunters, if we may so judge from the fact that he is less frequently referred to in the Digest. Aucupes appear in the Digest who were slaves serving as fowlers on estates - "Et si ab aucupio reditus fuit, aucupes et plagae et huius rei instrumentum."² The auceps is mentioned with hunters - "Venatores et aucupes utrum in urbanis an in rusticis contineantur, potest dubitari: sed dicendum est, ubi pater familias moraretur et eos alebat, ibi eos numerari."³ - and with hunters and fishermen.⁴ The fowler was expressly forbidden to trespass on other people's land if the owners were unwilling - "Divus Pius aucupibus ita rescripsit: 'οὐκ ἔστιν εὐλογον ἀκόντων τῶν δεσποτῶν ὁμῶς ἐν ἀλλοτρίοις χωρίοις ἰξεύειν.'⁵ Such trespass was forbidden to hunters as well.⁶ The further emphasis in the case of the fowler came, perhaps, because the temptation was greater in his case and escape relatively easier, at least easier than that of the hunter of larger game.

From other literary sources we learn that Antoninus Pius had his own hunters, fowlers, and fishermen, who kept his tables supplied with meat.⁷ This is probably one case among many of the time, as the Digest indicates,⁸ in which wealthy and thrifty owners of slaves thus supplied their own needs.

There are references that indicate that the consumption of fish and fowl rated as a luxury, the fare of the epicure as distinguished from that of the man of brawn. On this ground fowlers and fishermen were to be driven from the military camp while hunters of stags and boars were to be encouraged.⁹ Whether slave fowlers and hunters are referred to or free ones, in either case the fighting caliber of the men is highly disparaged by the author of the panegyric on Theodosius: "Ut taceam infami saepe dilectu

¹Col. ix. 8, 10.

²Ulp. Dig. xxxii. 7. 12. 13.

³Paul. Dig. xxxii. 99. 1.

⁴Ulp. Dig. ix. 2. 29. 3. See Note 3, p. 14.

⁵Call. Dig. viii. 3. 16.

⁶Gaius, Dig. xli. 1. 3. 1.

⁷Capitol. Ant. Pius vii. 5.

⁸Paul. Dig. xxxii. 99. 1. See Note 3.

⁹Veg. Mil. 1. 7.

scriptos in provinciis aucipes ductasque sub signis venatorum cohortes militasse convivis."¹

By way of equipment for the fowler, the Digest mentions nets only.² In addition to this, from other literary sources we learn that he carried a pole, usually called harundo,³ the best of which came from Panormus.⁴ This pole was called calamus⁵ also, and ames and pertica aucupalis as well.⁶ Sometimes the poles had birdlime on them,⁷ sometimes the birdlime was otherwise used.⁸ Nets (retia) were spread on forculae.⁹

Phasianarius.--Although pheasants were not raised for food exclusively, they were used for food. We may accordingly include among occupations that contributed to the food supply that of the slave who cared for pheasants, the phasianarius: "Avibus legatis anseres phasiani et gallinae et aviaria debebuntur: phasianarii autem et pastores anserum non continentur."¹⁰ He was found probably on large estates which had large numbers of slaves with highly specialized functions. Martial's picture of the bounteous country estate contains pheasants, for which there may have been such a keeper.¹¹ While pheasants were commonly known,¹² they probably were rated as luxuries both as food¹³ and as stock for an aviary.¹⁴ In the tables of the Edict of Diocletian the price of pheasants is high (one hundred denarii for hens running wild, the price doubled for fattened birds), with males running twenty five per cent higher than hens.¹⁵ Apparently the only mention of the phasianarius outside of the Digest is the passage in the Sententiae of Paulus which is the source of the citation.¹⁶ Both passages say as to the disposition of the keeper when the birds have been willed,

¹Paneg. 11. 14. 3. W. Baehrens, XII Panegyrici Latini (Leipzig, 1911).

²Ulp. Dig. xxxiii. 7. 12. 13. See Note 2, p. 19.

³Val. Flacc. vi. 262.

⁴Plin. N. H. xvi. 172.

⁵Mart. xiii. 68.

⁶Porph. on Hor. Epodes 11. 33; Festus, p. 19 L.

⁷Sil. Ital. vii. 674.

⁸Val. Flacc. vi. 263.

⁹See Note 6.

¹⁰Paul. Dig. xxxii. 66.

¹¹Mart. iii. 58. 16.

¹²Mart. xiii. 72; Pallad. i. 29.

¹³Suet. Vit. 13.

¹⁴Lampr. Alex. 41. 7.

¹⁵Edict. Diocl. 1v. 17, 18. See H. Blümner, Der Maximaltarif des Diocletian (Berlin, 1893), p. 76.

¹⁶Paul. Sent. iii. 6. 76.

that it is a question of the intention of the testator.

Pistor.--Those occupations that appear in the Digest concerned with an intermediate step in manufacture of food are all centered about the conversion of grain into bread, with milling and baking. Martial makes clear the fact that the pistor was both miller and baker:

A pistore, Cypere, non recedis:
et panem facis et facis farinam.¹

In the Digest pistores appear as slaves: "Qui habebat Flaccum fullonem et Philonicum' pistorem uxori Flaccum pistorem legaverat. sin autem ignota nomina servorum essent, pistorem legatum videri."² In inscriptions freedmen also appear as pistores.³ Among these freedmen were the pistores candidarii, bakers of white bread.⁴ From the citations of the Digest it is clear that some slaves of this class were found as part of the familia rustica, in which case their work was to supply bread for the members of the familia rustica - "pistorem et tonsorem qui rusticae familiae causa parati sunt."⁵ Other pistores were members of the familia urbana.⁶ Others were employed in a pistrinum from which bread was sold: "ut ecce pistorio instrumento legato ita ipsi pistores inesse videri possunt, si pater familias pistrinum exercuit."⁷ Cicero expressly states that the pistor was of the genus vulgare.⁸ This judgment the Digest reinforces by mentioning the pistor in the same class as the tonsor.⁹ The only hint that the Digest offers as to equipment of the pistor is the inclusion of the horses, caballi, with the pistores when a pistrinum has passed to a new owner by will: "et caballos, qui in pistrinis essent, et pistores."¹⁰ These horses were undoubtedly used in grinding grain. A passage in Paulus' Sententiae suggests that mules also were so used.¹¹ It was customary to hire out trained pistores to others - "Proinde si quis servos habuit proprios, sed quorum operas locabat vel pistorias vel histrionicas vel alias similes."¹² Blümner

¹Mart. viii. 16.

²Iavol. Dig. xxxiv. 5. 28.

³CIL VI. 6219; 9802.

⁴CIL XIV. 2302; XII. 4502.

⁵Ulp. Dig. xxxiii. 7. 12. 5.

⁶Paul. Sent. iii. 6. 72.

⁷Paul. Dig. xxxiii. 7. 18. 1.

⁸Cic. Pro Rosc. Am. xlvi. 134.

⁹Ulp. Dig. xxxiii. 7. 12. 5. See Note 5.

¹⁰Pompon. Dig. xxxiii. 7. 15.

¹¹Paul. Sent. iii. 6. 37. See Chap. III, Note 5, p. 48.

¹²Ulp. Dig. xxxii. 73. 3.

thinks that these pistores were hired out to private individuals or to proprietors of bakeries.¹ The Edict of Diocletian fixed the wages of such pistores at fifty denarii per day.²

The Digest refers to another type of pistor who seems to have been an independent dealer in bread. This baker had a slave who had a definite route for delivery of bread and regular patrons. The wily slave collected in advance for deliveries, then ran away. The judgment was that the baker must make good the orders if he allowed sums of money to be given to the slave. Ulpian's words are: "Si quis pistor servum suum solitus fuit in certum locum mittere ad panem vendendum, deinde is pecunia accepta praesenti, ut per dies singulos eis panem praestaret, conturbaverit, dubitari non oportet, quin, si permisit ei ita dari summas, teneri debeat."³

The pistores constituted one group that was permitted to organize themselves into a corpus or collegium - "Item collegia Romae certa sunt, quorum corpus....confirmatum est, veluti pistorum et quorundam aliorum."⁴ Membership in the group might be held by one who was at the head of a pistrinum and such a person was granted immunity from guardianship - "Qui in collegio pistorum sunt, a tutelis excusantur, si modo per semet pistrinum exercent. Sed non alios puto excusandos quam qui intra numerum sunt."⁵ Bakers in the city itself (pistores urbici) were excused from services as guardians even to sons of other members of the group - "Urbici autem pistores a collegiarum quoque filiorum tutelis excusantur."⁶ Non-members did not have such immunity. We conclude, accordingly, that the state was encouraging membership of the managers of bakeries in the union as well as permitting that of workers. The prominence of these collegia and the importance of pistores as a whole undoubtedly grew out of the fact that the corn dole in the later years of the empire was distributed in the form of bread.⁷

Furnarius.--Another workman concerned in some fashion with the baking of bread was the furnarius. The citation in the Digest in which he appears reveals more about the legal mind than about the furnarius - "Praeterea si furni nomine damni infecti fuerit cautum, deinde furnarii culpa damnum datum fuerit, non venire in

¹Blümner, op. cit., p. 107.

²Edict. Diocl. vii. 12.

³Ulp. Dig. xiv. 3. 5. 9.

⁴Gaius, Dig. iii. 4. 1.

⁵Paul. Dig. xxvii. 1. 46.

⁶Ibid.

⁷CIL VI. 1958.

hanc stipulationem plerisque videtur."¹ It raises the question whether loss occasioned through the fault of the furnarius can be adjudicated with reference to a cautio damni infecti previously given. The only light thrown on the furnarius is that he was actively connected with the operation of a furnus. The furnus was certainly used for baking bread.² The furnarius appears in one other case, clearly in connection with the baking of bread.³ In this second instance he seems to have been a freeman. Old editions of scholia on Juvenal mention a furnarius in connection with the discussion of furnus.⁴ In the Wessner edition furnarius⁵ has been replaced by mediastrini, a form that appears equivalent in meaning to the more common mediastini.⁶ Here reference is certainly to a slave. Inscriptions in which slaves and freedmen only appear show a freedwoman called a furnaria,⁷ as well as a furnarius.⁸ In one case we find a doubling of roles, the same slave serving as cellarius, in charge of the cella, the storeroom for grain and wine, and as furnarius.⁹

Blümner¹⁰ and Kapp¹¹ think that the word furnarius was a late usage, applied to a person exactly equivalent to the earlier pistor. The appearance of a freeman serving as furnarius, and the fact that the same person served as both cellarius and furnarius are confirmatory evidence for this view. The alternative possibility is that we have a late division of labor, the pistor, the maker of bread, no longer serving as the baker of bread, a function which had passed to the furnarius. In that case the furnarius did the work which Thédénat with little ground for the opinion assigns to the fornacator.¹²

Molitor.--Another occupation concerned with preparation of grain was that of the molitor. The grain consumed by the familia rustica was ground on the estate - "Idem consultus de meta

¹Ulp. Dig. xxxix. 2. 24. 7.

²Iuv. vii. 4 and scholium.

³Aug. Cont. Pet. ii. 83. 184.

⁴See Note 2.

⁵Kapp, TLL s. v. Furnarius.

⁶P. Wessner, Scholia in Iuvenalem Vetustiora (Leipzig, 1931), Iuv. vii. 4.

⁷CIL VIII. 24678.

⁸Ibid. and CIL VIII. 16921.

⁹CIL VI. 9253.

¹⁰H. Blümner, Technologie und Terminologie der Gewerbe und Künste bei Griechen und Römern (Leipzig, 1875), I, p. 83.

¹¹See Note 5.

¹²Thédénat, DS s. v. Furnus.

molendaria respondit, si rusticis eius fundi operariis moleretur, eam quoque deberi."¹ When that work was done by a special slave, not the ordinary slave of general functions, the molitor was the slave that ground that grain. He differed from the pistor in that he had nothing to do with the baking of the bread. Apparently the baking was done by women slaves in those ménages that had molito-res. Ulpian says: "et mulieres quae panem coquant quaeque villam servant: item molitores, si ad usum rusticum parati sunt."² The inference of the passage is that such slaves were not found exclusively in the familia rustica. This interpretation of molitor as miller distinguished from baker is strengthened by the gloss molitur - ἀλέειν.³

Blümner, quoting the reference from Ulpian only, interprets the molitor as a proprietor of a mill at a time after milling and baking were differentiated.⁴ The general context of the passage as well as the use of the words parati sunt indicate a slave of the establishment.

Marquardt considers that the molitor was in charge of a water mill.⁵ No very secure evidence on this point appears. In an adjudication in regard to a meta molendaria Paulus qualifies his statement by saying: "si rusticis eius fundi operariis moleretur," probably implying again separation of milling and baking.⁶ The only other occurrence of the word molendaria is in the expression asina molendaria in the same citation. The whole situation suggests that the molitor was a slave in charge of milling in a mill of the more usual type.

Pistrinarius.--The pistrinarius seems to have been a man that operated a pistrinum. He was able to make a contract for guarding a slave, who probably worked at the grinding of grain. For this guardianship he might receive pay. On the other hand he might pay the master for the services of the slave, assuming the obligation to guard him, or there might be an arrangement whereby the guarding was compensated for by the slave's labor. Finally the contract might involve the food of the slave only. Ulpian's

¹Paul. Dig. xxxiii. 7. 18. 5. ²Ulp. Dig. xxxiii. 7. 12. 5.

³CGL II. 130. 26; III. 307. 10.

⁴Blümner, Technologie, I, pp. 38, 39.

⁵J. Marquardt, Das Privatleben der Römer (Leipzig, 1886), p. 149.

⁶Paul. Dig. xxxiii. 7. 18. 5. See Note 1.

account of the situation is as follows:

Si quis servum custodiendum coniecerit forte in pistrinum, si quidem merces intervenit custodiae, puto esse actionem adversus pistrinarium ex conducto: si vero mercedem accipiebam ego pro hoc servo, quem in pistrinum accipiebat, ex locato me agere posse: quod si operae eius servi cum custodia pensabantur, quasi genus locati et conducti intervenit, sed quia pecunia non datur, praescriptis verbis datur actio: si vero nihil aliud quam cibaria praesabat nec de operis quicquam convenit, depositi actio est.¹

All this seems to indicate that the pistrinarius was an independent manager of a pistrinum, though there is no indication as to whether he was the owner or was managing for the owner. It seems unlikely, accordingly, that he is to be identified with the mollitor, an identification that Blümner implies, though he does not assert it.²

Obsonator.--In addition to these occupational groups engaged in the supplying of food there appears a group within the household who purchased, conserved, and served food. The obsonator appears in the Digest as a slave who did the marketing. Freedmen who were obsonatores appear in inscriptions.³ The jurist who mentions the obsonator in the Digest is interested in making it clear that he was not a negotiator although he bought in the market.⁴ Paulus states that such slaves belonged to the familia urbana.⁵ Those that appear in inscriptions were from the royal households.⁶ The context of literary references to the obsonator leaves one with the impression that he bought dainties and more luxurious foods.⁷ This is in accord with Fournier's statement that obsonium included all food except grain stuffs (far).⁸ An account of Hadrian's method of checking the work of obsonatores leads one to believe that the obsonator did not always enjoy the confidence of his master.⁹

Cellararius.--The Digest is explicit in its statement of the status and function of the cellararius. He was a slave whose appointment was made that he might keep accurate accounts: "cellarium quoque, id est ideo praepositus, ut rationes salvae

¹Ulp. Dig. xvi. 3. 1. 9.

²Blümner, Technologie, I, p. 39, note 1.

³CIL VI. 8945. ⁴Marcian. Dig. xxxi. 65. See Note 3, p.13.

⁵Paul. Sent. iii. 6. 72.

⁶CIL VI. 8946; 5353.

⁷Plaut. Mil. 667; Sen. Ep. 47. 8.

⁸Fournier, DS s. v. Cibaria, p. 1142. ⁹Spart. Had. 17. 4.

sint."¹ It seems safe to say that he was placed in charge of the cellarium to keep track of its contents.

The word cellarium is first used by Scaevola, who says: "Fortunio liberto meo ex domu mea, quam libertis dedi, diaetam, in qua habitabam, item cellarium iunctum eidem diaetae ab herede meo concedi volo."² Apparently, as he uses it, it means a room attached to a suite, probably for provisions, and probably one that can be locked. Servius uses the word in his comment on Aen. I. 703, defining it as the storeroom for provisions to be used in a few days as distinguished from penum, the storeroom for provisions that were to last for a longer time.³ Isidore makes a like distinction between cellarium and promptuarium.⁴ The word appears frequently in church Latin and in glosses, usually in the sense of a storeroom for food and dishes for table service.⁵

The cellararius, then, was a slave not in charge of a general storeroom, cella, as was the cellarius, but in charge of a particular storeroom, the cellarium. Paulus uses the word in a context in which this interpretation fits perfectly, i.e. with opsonatores and vestiarii.⁶ The word appears in church Latin also in a similar sense.⁷

Cellarius.--The cellarius is mentioned in the Digest with no information about him other than that he was a slave - "Nominatim videntur liberi esse iussi, qui vel ex artificio vel officio vel quolibet alio modo evidenter denotati essent, veluti 'dispensator meus,' 'cellarius meus,' 'cocus meus.'"⁸ He was probably originally in charge of the cella.⁹ The cella in this sense was a storeroom for grain,¹⁰ oil, or wine.¹¹ There are instances of the occurrence of cellarius which indicate a person in charge of such a cella, as: "Ut cibus et potio sine fraude a cellariis praebeatur."¹² and: "cellariis aliquid appendentibus aut metientibus."¹³ In view of the juxtaposition of dispensator and coquus, it may be that the word here refers to such a person.

An instance occurs, however, in which it is evident that

¹Ulp. Dig. xxxiii. 7. 12. 9.

²Scaev. Dig. xxxii. 41. 1.

³Serv. Aen. I. 703.

⁴Isid. Orig. xv. 5. 7.

⁵TLL s. v. Cellarius.

⁶Paul. Sent. iii. 6. 72.

⁷TLL s. v. Cellararius.

⁸Gaius, Dig. xl. 4. 24.

⁹CGL II. 451. 28.

¹⁰Ulp. Dig. xxxiii. 9. 3. 8.

¹¹Cato R. R. iii. 2.

¹²Col. xi. 1. 19.

¹³Col. xii. 3. 8.

the word is applied to one in charge of a storeroom for wine.¹ One suspects when the word is found linked with the word coquus, as here and elsewhere,² that that was the function of that particular cellarius.

A second interpretation, however, is possible, arising from the appearance of the word in an epigram of Martial's that reads in part as follows:

hinc cellarius experitur artes
ut condat vario vafer sapore
in rutae folium Capelliana.
sic inplet gabatas paropsidesque
et leves scutulas cavasque lances.
Hoc lautum vocat, hoc putat venustum
unum ponere ferculis tot assem.³

This epigram clearly establishes the fact that the cellarius may have been a butler in charge of a pantry, not one in charge of wine only. As this function and the connection with dishes immediately suggest the cellararius, the problem promptly arises as to the relationship between the two. Either we have here a leveling of words among the Romans themselves such as occurs in the case of the same two words among German commentators or differentiation of the two functions occurred at a late date. Objection to the latter view arises from the fact that Scaevola, who first uses the word cellarium as distinguished from cella, is of about the same period as Gaius, the author of the citation in which cellarius appears. The word cellararius is found later in citations from Ulpian and Paulus.⁴ One scribe at least who copied a scholium on Horace was acquainted with both words or copied what he saw without being acquainted with it.⁵

Coquus.--The Digest refers to cooks frequently. All that appear there were slaves. One was given as a legacy - "Igitur et si ita servus legatus sit: 'Stichum cocum,' 'Stichum sutorem Titio lego,' licet neque cocus neque sutor sit, ad legatarium pertinebit."⁶ Another was freed by will.⁷ Two jurists mention the doubling of roles of slaves. In one citation the same people

¹Plin. N. H. xix. 188.

²Col. xii. 4. 2; Sen. Ep. 122. 16.

³Mart. xi. 31. 15-21.

⁴Dig. xxxiii. 7. 12; Paul. Sent. iii. 6. 72.

⁵Sch. Hor. Sat. ii. 2. 16. (O. Keller. Pseudoacronis Scholia in Horatium Vetustiora (Leipzig, 1902)).

⁶Gaius, Dig. xxxv. 1. 17. 1.

⁷Gaius, Dig. xl. 4. 24.

served as cooks, litter bearers, and weavers - "Si unus servus plura artificia sciat et alii coci legati fuerunt, alii textores, alii lecticarii, ei cedere servum dicendum est, cui legati sunt in quo artificio plerumque versabatur."¹ In the other case they were cooks and litter bearers - "Servis lecticariis legatis si idem lecticarius sit et cocus, accedet legato."² The cook was included among the slaves attached to the personal service of the master - "Et sibi videre eos demum usus sui causa patrem familias habere, qui ad eius corpus tuendum atque ipsius cultum praepositi destinatique essent, quo in genere iunctores, cubicularii, coci, ministratores."³ The last citation dealing with cooks is concerned with the representation made by the man who sold a cook. If the cook was recommended as excellent, the jurist ruled that that must mean excellent in his art. If, however, he was presented merely as a cook, even if he was a very ordinary cook, no misrepresentation could be charged to the person who sold him. Gaius's words are: "Venditor, qui optimum cocum esse dixerit, optimum in eo artificio praestare debet: qui vero simpliciter cocum esse dixerit, satis facere videtur, etiamsi mediocre cocum praestet."⁴ Paulus says that cooks were included in the familia urbana.⁵ The Digest makes no such statement, but lends support to it by including in the familia rustica women whose function was to cook food other than bread for the slaves, "quae pulmentaria rusticis coquant,"⁶ and even women to bake bread, "Mulieres quae panem coquant."⁷

On the whole this picture of the cook agrees with that drawn from literary sources. Livy tells us that slaves who served as cooks were known early, were not highly regarded, and were cheap. Subsequently cooking was regarded as an art and cooks were expensive.⁸ This new attitude rather clearly indicates the coming of the gourmet, the sort of person that would inspire such a book as that of Apicius.⁹ On the other hand, it is the first step toward the coming of the gourmand and the innumerable illnesses that Seneca charges to cooks.¹⁰ This remark of Seneca's

¹Marcian. Dig. xxxii. 65. 2.

³Alf. Var. Dig. L. 16. 203.

⁵Paul. Sent. iii. 6. 72.

⁷Ibid.

⁹Apicius, De Re Coquinaria.

²Paul. Dig. xxxii. 99. 4.

⁴Gaius, Dig. xxi. 1. 18.1.

⁶Ulp. Dig. xxxiii. 7. 12. 5.

⁸Liv. xxxix. 6. 9.

¹⁰Sen. Ep. 95. 23.

and one citation from the Digest indicate that one household might have many cooks.¹ This state of affairs is even more clearly indicated by references to the archimageiros.²

Pliny tells us that the baking in earlier times was done in the house, but finally passed into the hands of pistores.³ Not only was this true in the city, but the great estates in the country had their own slave bakers.⁴ However, the Digest makes it clear that in some rural situations the old custom persisted and women still did the baking as well as the cooking.⁵

There is one type of cook of whom the Digest gives no hint, the cook that could be hired for special occasions by those that had no cook or by those that had cooks inadequate for some particular event.⁶ These cooks are met frequently in comedy,⁷ where they furnish highly comic embellishment.⁸ We find a reference to coqui publici as late as the time of Julianus.⁹ A collegium of cooks appears, probably a burial association.¹⁰

Numerous references to the kitchen equipment used by the cook appear. The Digest lists the following: caccabi, patinae, aenum quod supra focum pandet, urcei.¹¹ Isidore adds ollae, patellae, cucumae, lebetae, sartagine, tripedes, molae, cribra, rutabula.¹² Anthimus adds the spatula.¹³

Ministrator.--The slave who served at the table was called ministrator as Seneca tells us.¹⁴ Petronius mentions especially his serving wine.¹⁵ The only information that the Digest gives about the ministrator is the fact that he was attached to the personal service of the master.¹⁶ The ministratores were young, handsome,¹⁷ of uniform size, and well-groomed.¹⁸ Their hair was carefully cared for.¹⁹ Inscriptions show that they served in the

¹See Note 1, p. 28.

²Iuv. ix. 109; CIL VI. 7458.

³Plin. N. H. xviii. 107, 108.

⁴See Note 7, p. 28. See also Pistor.

⁵See Notes 6 and 7, p. 28.

⁶Plin. N. H. xviii. 108; Paul. Fest. p. 173 M; 176 L.

⁷Plaut. Aul. 280.

⁸Plaut. Pseud. 790 ff.

⁹Cassiod. Hist. vi. 11.

¹⁰CIL. VI. 7458.

¹¹Paul. Dig. xxxiii. 7. 18. 3.

¹²Isid. Orig. xx. 8.

¹³Anthim. 35.

¹⁴Sen. Ep. 95. 24.

¹⁵Petr. 31.

¹⁶Alf. Var. Dig. L. 16. 203. See Note 3, p. 28.

¹⁷Cic. De. Fin. 11. 8. 23.

¹⁸Sen. Ep. 119. 13.

¹⁹Ambr. Ep. 69. 7.

royal households and that many were freed.¹ It may be that these ministratores were trained in a paedagogium.² There was a collegium of ministratores.³ An inscription appears of a person called a frumento ministratorum, probably a slave who cared for the food of the rather large retinue of ministratores.⁴

¹CIL VI. 8915 ff.; 9641 ff.

²See Chapter III, Note

³CIL VI. 8914.

⁴CIL VI. 8924 - 8926.

CHAPTER II
OCCUPATIONS CONCERNED WITH CLOTHING

Another group of occupations in which we find humbler folk engaged is centered about clothing. Certain of these are concerned with the conversion of raw material into shape that can be used for clothing, i.e. spinning and weaving. One occupation only appears in the Digest that had to do with the conversion of material into wearable form, that of the shoemaker. A larger number appear concerned with the upkeep of the garment after it had been made and worn.

Lanipendia.--In spinning, the work seems to have been portioned out by a lanipendia to the women who did the spinning. In the Digest she appears only when a man's wife is compared to a lanipendia. A garment was made for a woman out of her husband's wool under her supervision. We are told that she was, as it were, a lanipendia and managed the work for her husband. Pomponius says: "Sed si vir lana sua vestimentum mulieri confecerit, quamvis id uxori confectum fuerit et uxoris cura, tamen viri esse neque impedire, quod in ea re uxor tamquam lanipendia fuerit et viri negotium procurarit."¹ This clearly indicates that a lanipendia had supervision over the spinning, weaving, and making of the garment. In inscriptions a lanipenda appears, a slave or freedwoman, who, we assume, had the same function.² The masculine form lanipendus also is found there.³ An old scholium on Juvenal, not recognized by Wessner, defines libraria as lanipendia.⁴ Wessner recognizes a scholium that contains the word, but throws no light on the meaning.⁵ The work of portioning out the work for spinners is mentioned frequently with no reference to the person who portioned it out.⁶ The ball of wool also, which constituted the portion, is mentioned frequently.⁷

¹Pompon. Dig. xxiv. 1. 31.

²CIL VI. 9496-9498.

³CIL VI. 3976; 8870.

⁴Iuv. vi. 476.

⁵Sch. Iuv. vi. 497.

⁶Prop. iv. 7. 41; Iust. i. 3. 2.

⁷Varro. R. R. ii. 11. 9; Hor. Ep. i. 13. 14; Ov. Met. vi.

Lanifica.--The actual spinners were known as lanificae. Those that appear in the Digest were slave women kept to clothe the slaves of the familia rustica - "Item lanificas quae familiam rusticam vestiunt."¹ They were not considered part of the instrumentum of the estate.² They were, however, included in a legacy of the estate and its instrumenta on the ground that they were part of the equipment that the man who had lived there had provided for the estate. The opinion of Alfenus is as follows:

Consultus de mulieribus lanificis an instrumento continentur, respondit non quidem esse instrumenti fundi, sed quoniam ipse pater familias, qui legasset, in eo fundo habitasset, dubitari non oportere, quin et ancillae et ceterae res, quibus pater familias in eo fundo esset instructus, omnes legatae viderentur.³

Paulus also says that maids who made clothing for the rustic slaves went with the instrumentum.⁴

Both Petronius⁵ and Tibullus⁶ make it clear that the poorest slaves and those least highly regarded were put at the spinning. In contrast with this attitude, skill in spinning was reckoned as one of the very highest and most commendable qualities of the Roman matron⁷ and Minerva herself is called lanifica.⁸

Textor.--Weavers, all of whom were slaves, appear several times in the Digest. Both men and women served as weavers - "textores meos omnes....lego";⁹ "ut textorum et textricum cibaria diceret contineri."¹⁰ In no case is a single weaver left in a legacy, an indication that when wool was dealt with it was in considerable quantity. One woman weaver appears in a citation in which we are told that even she might have the right of actio in peculio - "maxime si qua sarcinatrix aut textrix erit aut aliquod artificium vulgare exerceat, datur propter eam actio."¹¹ Weavers are mentioned in conjunction with fullers,¹² with the repairer of garments,¹³ and by implication are classed as servi vulgares.¹⁴ Weavers are mentioned among the slaves that had more than one service to perform, serving as cooks and litter bearers as well

¹Ulp. Dig. xxxiii. 7. 12. 5.

²See Note 6, p. 34.

³Alf. Dig. xxxiii. 7. 16. 2.

⁴Paul. Sent. iii. 6. 37.

⁵Petr. 132.

⁶Tib. iv. 10. 3.

⁷Auson. Par. ii. 4; xvi. 4.

⁸Ov. Met. vi. 6; 23.

⁹Pompon. Dig. xxx. 36.

¹⁰Ulp. Dig. xxxiii. 9. 3. 6.

¹¹Gaius, Dig. xv. 1. 27.

¹²See Note 3, p. 33.

¹³See Note 11.

¹⁴Ibid.

as weavers.¹ So important were weavers in the ordinary work of the Roman ménage that the question was raised whether they were included in the class of slaves acquired for the master's own service. Alfenus says: "Itemque de servis eadem ratione quaeri, qui eorum usus sui causa parati essent? Utrum textores...."² They were not considered part of the stock in trade of a mercator - "Licet mercis appellatio angustior sit, ut neque ad servos fullones vel sarcinatores vel textores.... pertineat."³

The social rating of the weaver in Latin literature quite corresponds to the statement of the Digest that the weaver was of the ordo vulgaris.⁴ Martial classes him with the shoemakers and with fullers,⁵ in the latter agreeing with Ulpian. One weaver appears, however, who had served as triumvir, quaestor, and tribune.⁶ He may have held these offices in a burial association, though Waltzing does not mention an association of weavers.

Ulpian, in passing judgment on what constitutes instrumentum, mentions stages of weaving and refers to the warp and woof.⁷ The Digest offers nothing further on the process of weaving.

Sutor.--The only workman appearing in the Digest who produced articles ready to wear was the shoemaker. Shoemakers appear who were slaves.⁸ Paulus includes a sutor among the slaves necessary in a villa rustica.⁹ In one case the sutor was a verna, a slave born in the house, a class that usually received better treatment than other slaves. In this case the sutor was willed to a foster child with the intention that the slave should support the new owner. The small shoe shop operated by a slave for his master is here clearly indicated. The words of Scaevola are: "Hoc amplius 'eidem alumno meo hominem Caletanum et vernam sutorem, qui eum artificio suo mercede data alere poterit.'"¹⁰ Not all shoemakers were slaves, however, as the Digest makes clear. In one case we are expressly told that a shoemaker had a freeborn apprenticeship. This apprentice proved so unsatisfactory a pupil that the sutor lost his temper, threw a last at him, and put out his eye:

¹Marcian. Dig. xxxii. 65. See Chapter I, Note 1, p. 28.

²Alf. Var. Dig. L. 16. 203. ³Ulp. Dig. xiv. 4. 1. 1.

⁴Suet. Gram. 23; Iuv. ix. 30; Mart. iv. 19. 1.

⁵Mart. xii. 59. 6. ⁶CIL VI. 9290. ⁷Dig. xxxiv. 2. 22.

⁸Gaius, Dig. xxxv. 1. 17. 1. See Chapter I, Note 6, p. 27.

⁹Paul. Sent. iii. 6. 37. ¹⁰Scaev. Dig. xxxvi. 1. 80 (78). 12.

"Sutor.... puero discenti ingenuo filio familias, parum bene facienti quod demonstraverit, forma calcei cervicem percussit, ut oculus puero perfunderetur."¹ The status of the sutor is not clear, but in subsequently recounting this or a similar incident Ulpian says that the father of the boy could bring a suit ex locato - "ex locato esse actionem patri eius."² The sutor in that case was probably a freedman, or possibly even a freeman. It is interesting to note in passing that the jurists hasten to support the principle of discipline for apprentices, criticizing only the severity. Ulpian says: "quamvis enim magistris levis castigatio concessa sit, tamen hunc modum non tenuisse."³ Paulus adds by way of comment on the incident: "praeceptoris enim nimia saevitia culpa adsignatur."⁴

Sutores were one group whose rights and duties were specifically defined in the Lex Metalli Vipascensis.⁵

Fullo.--The information about fullers that appears in the Digest offers little as to the process of the industry, but much about the business. In one citation we find reference to slaves on an estate serving as fullers - "lanificae et lanae et tonsores et fullones et focariae non agri sunt instrumentum sed instrumenti."⁶ They are of the genus vulgare, mentioned along with the shearers of sheep and spinners, and are classed as instrumentum instrumenti. These fullers the context clearly marks as those who dressed the newly woven lengths of woolen cloth.⁷ As early as the time of Varro these fullers were found on estates, yet even then not all estates had them; some utilized the services of neighboring fullers.⁸

The fuller that maintains a business of his own is the usual figure appearing in the Digest. Though he was paid for expert service he was nevertheless held responsible for the safeguarding of goods entrusted to him - "Nam et fullo et sarcinator non pro custodia sed pro arte mercedem accipiunt, et tamen custodiae nomine ex locato tenentur."⁹ The recovery of a garment from

¹Ulp. Dig. ix. 2. 5. 3.

³Ibid.

⁵CIL II. 5181. 32-37.

⁷Ulp. Dig. xlvii. 2. 12; Paul. Sent. ii. 31. 29.

⁸Varro R. R. i. 16. 4.

⁹Gaius, Dig. iv. 9. 5. See also Gaius, Dig. xix. 5. 22.

²Ulp. Dig. xix. 2. 13. 4.

⁴Paul. Dig. ix. 2. 6.

⁶Ulp. Dig. xxxiii. 7. 12. 6.

a fuller is cited as an illustration of the statement that a suit ex locato may be brought for the recovery of the identical thing in question as opposed to the value of the thing - "Respondit rerum locatarum duo genera esse, ut aut idem redderetur (sicuti cum vestimenta fulloni curanda locarentur) aut eiusdem generis redderetur."¹ If, however, a fuller lost a garment and made restitution to its owner, the owner had no further action against the fuller - "Si fullo aut sarcinator vestimenta perdiderit eoque nomine domino satisfecerit, necesse est domino vindicationem eorum et conditionem cedere."² If a fuller undertook the work on a garment, then passed it on to another person to do and the garment was stolen from the second person, the original contractor was held responsible - "Si ego tibi poliendum vestimentum locavero, tu vero inscio aut invito me commodaveris Titio et Titio furtum factum sit...."³ If the garment was stolen from the fuller's, the owner could sue the fuller ex locato or he could bring action against the thief at the fuller's expense:

Vestimenta tua fullo perdidit et habes unde petas nec repetere vis: agis nihilo minus ex locato cum fullone, sed iudicem aestimaturum, an possis adversus furem magis agere et ab eo tuas res consequi fullonis videlicet sumptibus: sed si hoc tibi impossibile esse perspexerit, tunc fullonem quidem tibi condemnabit, tuas autem actiones te ei praestare compellet.⁴

In fact, he could even choose whether he would sue the fuller ex locato or for theft, but he could not sue him on both charges:

Fullo actione locati de domino liberatus est: negat eum furti recte acturum Labeo. Item si furti egisset, priusquam ex locato cum eo ageretur et, antequam de furto iudicaretur, locati actione liberatus esset, et fur ab eo absolvi debet. Quod si nihil eorum ante accidisset, furem ei condemnari oportere.⁵

The law took cognizance of the plight of the fuller also. If garments were let to him to wash, were lost, and paid for by the fuller, then subsequently found by the master, it is granted implicitly that the fuller could get his money. The question is raised only on what ground he may bring suit - "Si fullo vestimenta lavanda conduxerit, deinde amissis eis domino pretium ex locato conventus praestiterit posteaque dominus invenerit vestimenta, qua actione debeat consequi pretium quod dedit?"⁶ As a

¹Alf. Dig. xix. 2. 31.

²Gaius, Dig. xix. 2. 25. 8.

³Ulp. Dig. xlvii. 2. 48. 4.

⁴Labeo, Dig. xix. 2. 60. 2.

⁵Iavol. Dig. xlvii. 2. 91.

⁶Ulp. Dig. xii. 7. 2.

rule, when garments were stolen from a fuller, he brought action against the thief. If he was insolvent, however, the owner of the garment might bring action - "Itaque fullo, qui curanda poliendave vestimenta accepit, semper agit: praestare enim custodiam debet. Si autem solvendo non est, ad dominum actio redit."¹ A fuller had the right to action for damages "si quadrupes pauperiem fecisse dicatur" as well as the owner of the garments, on the ground that he was responsible for goods entrusted to his care - "Haec actio non solum domino, sed etiam ei cuius interest competit, veluti ei cui res commodata est, item fulloni, quia eo quod tenentur damnum videntur pati."²

Goods left with fullers were not only lost or stolen, but various other accidents befell them. If mice gnawed holes in them, the fuller was liable for a suit ex locato and the jurist sententiously adds that he should have guarded against this - "Si fullo vestimenta polienda acceperit eaque mures roserint, ex locato tenetur, quia debuit ab hac re cavere."³ If pallia were exchanged, i.e. a garment delivered to a person other than the owner, who in turn received a pallium not his own, the fuller was responsible ex locato even if he had committed the error unwittingly - "Et si pallium fullo permutaverit et alii alterius dederit, ex locato actione tenebitur, etiamsi ignarus fecerit."⁴ While it is possible that this occurred through delivery to the slave of the owner at the fuller's, it may possibly indicate that there existed a delivery service from the fuller's.⁵ If the fuller wore a garment sent to him to be cleaned, he was liable for action for theft - "Fullo et sarcinator, qui polienda vel sarcienda vestimenta accepit, si forte his utatur, ex contrectatione eorum furtum fecisse videtur, quia non in eam causam ab eo videntur accepta."⁶ The jurist adds the reason for his opinion: he did not receive the garment for that purpose.

The quarters of the fuller seem to have been located in any spot that he could find to his advantage. In one case a fullery was established in the neighborhood of a spring that rose on an estate. The water from the fullery was permitted to run off

¹Ulp. Dig. xlvii. 2. 12.

²Paul. Dig. ix. 1. 2.

³Ulp. Dig. xix. 2. 13. 6.

⁴Ibid.

⁵See Chapter I, Note 3, p. 22.

⁶Paul. Dig. xlvii. 2. 83 (82).

on the land of a neighbor, who brought action aquae pluviae arcendae, but the man that built the fullery was not subject to judgment on that ground - "Apud Trebatium relatum est eum, in cuius fundo aqua oritur, fullonicas circa fontem instituisse et ex his aquam in fundum vicini immittere coepisse: ait ergo non teneri eum aquae pluviae arcendae actione."¹ Another citation concerning the drying of clothes in the street in front of a fuller's shop locates the shop on a used thoroughfare - "Ἐπιμελείσθωσαν δὲ καὶ ὅπως πρὸ τῶν ἐργαστηρίων μηδὲν προκείμενον ᾧ, πλὴν ἑὼν κναφεὺς ἱμάτια ψύγῃ."² When the use of a house had been granted to a person, the jurist ruled that the fructuary was under moral obligation not to start a fullery in it - "Meritoria illic facere fructuarius non debet..... Quod autem dicit meritoria non facturum ita accipe quae vulgo deversoria vel fullonica appellant."³ These last citations indicate that a fullery, while it was a public nuisance to some extent, was at the same time a necessary and profitable institution.

One citation appears that makes clear the fact that fullers had apprentices and that they conducted a rather pretentious establishment. A fuller departing for foreign travel left a person in charge of his fullery and apprentices. One of the latter took in garments, then fled, taking the garments with him. The jurist ruled that if the person in charge had been left as procurator, the fuller was not liable, but if as institor, he was. Ulpian says:

Item fullonum et sarcinatorum praepositus (institor appellatur)..... Sed et cum fullo peregre proficiscens rogasset, ut discipulis suis, quibus tabernam instructam tradiderat, imperaret, post cuius professionem vestimenta discipulus accepisset et fugisset, fullonem non teneri, si quasi procurator fuit relictus: sin vero quasi institor teneri.⁴

A later citation expressly states, however, that goods passing through the hands of fullers can not be classed as goods of trade (merx), but adds the opinion that, like other kinds of business, that of the fuller was subject to tax. The opinion reads: ".... dominus....ex hoc Edicto in tributum vocatur. Licet mercis appellatio angustior sit, ut neque ad servos fullones....pertineat,.... ad omnes negotiationes porrigendum edictum."⁵ This citation indi-

¹Ulp. Dig. xxxix. 3. 3.

²(Papin.), Dig. xliii. 10. 1. 4.

³Ulp. Dig. vii. 1. 13. 8.

⁴Ulp. Dig. xiv. 3. 5. 7, 10.

⁵Ulp. Dig. xiv. 4. 1.

cates that slaves operated fulleries, we assume either for the master or as a venture of their own involving their peculium.

Sarcinator.--Another occupation concerned with the upkeep of clothes was that of the sarcinator. The Digest makes clear that some sarcinatores were slaves.¹ Inscriptions show freedmen also.² Freeman may have plied the trade, but proof that they did so is lacking. There is no sure evidence that the sarcinator worked in the house of the master. It is clear that his work was usually done outside of the home.³ The actual work may have been done by slaves,⁴ and seems to have been done at times, at least, in an establishment of some size with an institor at the head of it.⁵ People engaged in this business, however, were not classified as those engaged in trade.⁶ Sarcinatores were held responsible for garments left with them whether they were doing the work gratis or received pay for it,⁷ although technically they received the money in return for skilled labor, not for guarding the garment.⁸ If they used the garments left with them, they were judged guilty of theft.⁹ They made reparation for lost garments.¹⁰

The context of the passages in which the sarcinator appears in the Digest agrees with the explicit statements of other sources that he repaired garments.¹¹ Not a great deal can be learned about the process. The mending seems at times to have been clearly patching with pieces of goods - "nam et sarcinatores concipere dicuntur vestimenta cum e diverso coniungunt et adsuunt."¹² The extreme variety of the work is indicated by the specifications and price range appearing in the Edict of Diocletian.¹³

Sarcinatrix.--The sarcinatrix that appears in the Digest

¹Ibid. See Note 3, p. 33.

²Or. 7274.

³Gaius, Dig. xix. 2. 25. 8. See Note 2, p. 35.

⁴See Note 3, p. 33.

⁵Ulp. Dig. xiv. 3. 5. 7, 10. See Note 4, p. 37.

⁶See Note 3, p. 33.

⁷Gaius, Dig. xix. 5. 22.

⁸Gaius, Dig. iv. 9. 5. See Note 9, p. 34.

⁹Paul. Dig. xlvii. 2. 83 (82). See Note 6, p. 36.

¹⁰Gaius, Dig. xix. 2. 25. 8. See Note 2, p. 35.

¹¹Lucil. apud Non. p. 175. 33; Gaius, Inst. iii. 143.

¹²Serv. Aen. xii. 13.

¹³Edict. Diocl. vii. 48 ff.

was a slave.¹ She was working in the house of the master and seems to have belonged to the class of slaves known as vulgares. The context of the passage is in harmony with the explicit statement of Nonius that the sarcinatrix repaired garments.² Not a great deal can be learned about the process of the work of the sarcinatrix. We know that she used a needle.³ She used something that was known as machina - "homines rusticos in vindemia incondita cantare, sarcinatrices in machinis."⁴ What these machinae were we do not know. The sarcinatrix may have used some sort of hoop for stretching the garment or even used small looms to weave in parts. Inscriptions show slaves⁵ and freedwomen⁶ only working as sarcinatrices.

¹Gaius, Dig. xv. 1. 27. See Note 11, p. 32.

²Non. p. 56. 23.

³Fest. p. 8 L.

⁴See Note 2.

⁵CIL VI. 9039 b.

⁶CIL VI. 9037; 9038.

CHAPTER III

OCCUPATIONS CONCERNED WITH SERVICE FOR THE HOUSEHOLD

A very large number of humble folk was engaged in the service of the household. Some of these were concerned with the care of the house itself. Some served in the upkeep of the premises. Certain ones were engaged in the personal service and care of members of the family. Others, though members of the staff of house servants, rendered their service chiefly outside of the house.

Scoparius.--One of the humblest members of the group who attended to the house itself was the scoparius - "Quibusdam in regionibus accedunt instrumento, si villa cultior est, veluti atrienses scoparii."¹ This reference of Ulpian's in the Digest furnishes our only information about the scoparius, who was obviously the wielder of a broom, scopae.² He was a slave, found apparently in a villa of the better sort. The context suggests that he was associated with the atriensis, possibly subordinate to him, though this is by no means a certain deduction from the allocation of the words. If the words qui verrunt describe the work of a scoparius as they very well may, there is evidence in one of Cicero's paradoxes that a slave performing the work that a scoparius would naturally perform was subordinate to an atriensis.³ Our inference is that when a scoparius appears we are dealing with a ménage that had a large number of slaves with highly specialized functions.

In other cases where sweeping is done it is done either by slaves to whom no title is given,⁴ or by a slave other than the scoparius, as in the case in the Cena Trimalchionis.⁵ Whether Trimalchio had missed the acme of elegance in failing to have a

¹Ulp. Dig. xxxiii. 7. 8. 1.

²The word appears with this meaning in church Latin. See C. D. Du Cange, Glossarium Mediae et Infimae Latinitatis (Paris, 1840), s. v.

³Cic. Par. v. 37.

⁴Plaut. Asin. 424 ff.; Stich. 347; 351; 375.

⁵Petr. 34.

scoparius, or whether it was more impressive to have a slave of higher order performing the task of sweeping up fallen dishes it is impossible to say. The facts that the function is referred to without the use of the word in earlier Latin and that the word appears in later Latin only lead to the conclusion, however, that the word was not in use in earlier times.

A freedman scoparius who seems to have served in a temple of Isis and who lived to the age of eighty appears in an inscription from Syracuse.¹

Atriarus.--Another slave engaged in menial work in the house was the atriarius. The citation in the Digest in which the word appears furnishes our chief information about atriarii. They were slaves of the lower ranks, classed with the focarii. In this case at least they were connected with a caupona or stabulum, and are expressly mentioned as those to whom valuables may not be intrusted by patrons of the place. Ulpian's words are: "Caupones autem et stabularios aequae eos accipiemus, qui cauponam vel stabulum exercent, institutoresque eorum. Ceterum si qui opera mediastini fungitur, non continetur, ut puta atriarum et focarium et his similes."²

The only other occurrence of the word appears in the records of a collegium found at Antium as a restoration in an era-sure.³ The condition of the inscription makes it impossible to draw any inference as to the person so named though the reading seems to be granted as correct. He appears in a company, in part slaves, in part freedmen, of widely differing occupations. They may have been the highly specialized slaves of a wealthy villa, possibly a villa of the emperor's, or they may have been drawn from various sources into a single burial society.

It is impossible to prove that the atriarii were not slaves working under the atriensis and doing the heavy work,⁴ as is the view of Chapot,⁵ Habel,⁶ and Marquardt.⁷ From any data that we have at present, however, it is quite impossible to prove that

¹CIL X. 7129.

²Ulp. Dig. iv. 9. 1. 5.

³CIL X. 6638. C 2. 6.

⁴See Note 3, p. 40.

⁵DS s. v. Servi, p. 1275.

⁶PW s. v. Atriarus.

⁷Privatleben, p. 142, n. 3. Marquardt considers the scoparius and atriarius identical. There is no evidence that this is true. Both words seem to be late usages. That fact would suggest that the functions differed.

they were.

Atriensis.--The atriensis himself is found in three citations in the Digest. In the first, one from Ulpian, the transfer of a slave by a fructuary from a group of musical entertainers to the position of atriensis is considered an abuse of privileges - "Si...vel de symphonia atriensem vel de palaestra stercorandis latrinis praeponat, abuti videbitur proprietate."¹ The context clearly indicates that the work of the atriensis was degrading for a trained musician. In certain regions if the villa was of the better sort the atrienses were considered part of the instrumentum of the fundus.² Atrienses, then, seem to have been slaves of specialized function, found on estates where there were many slaves. In another citation, one from Alfenus, the question was raised whether atrienses were to be considered as part of the group of slaves attached to the personal service of the master - "Itemque de servis eadem ratione quaeri, qui eorum usus sui causa parati essent? Utrum....atrienses."³

From other literary sources it is clear that three sorts of atriensis were known. In the Asinaria of Plautus an atriensis seems to be imposing both mentally and physically, one who manages the house, buys and sells, takes in and pays out money.⁴ Servius, referring to this atriensis, says "servum atriensem, in tota familia plurimum posse."⁵ Cicero says that atrienses were servants of better position,⁶ and suggests that they should be younger men and suitably dressed.⁷ If we may interpret Suetonius' cella Palatini atriensis as the storeroom of the atriensis attached to the palace on the Palatine - an interpretation by no means certain - that sort of atriensis, the keeper of the storeroom, was still found at the time of Caligula.⁸

A second sort of atriensis is that occurring in glosses as οικοφύλαξ, ianitor, ostiarus.⁹ As early as the time of Plautus an atriensis appears sub ianua.¹⁰ In Apuleius atrienses appear with ianitores.¹¹ While not identified with them, they are thought

¹Ulp. Dig. vii. 1. 15. 1.

²Ulp. Dig. xxxiii. 7. 8. 1. See Note 1, p. 40.

³Alf. Var. Dig. L. 16. 203. ⁴Plaut. Asin. 350-1; 420 ff.

⁵Serv. Aen. ix. 645.

⁶See Note 3, p. 40.

⁷Pis. 67.

⁸Suet. Cal. 57. 2.

⁹CGL III. 305. 9; V. 441. 54.

¹⁰Caes. 462.

¹¹Mund. 26.

of in the same connection. A scholium on Juvenal refers to the same sort of service.¹

The third sort, probably referred to by the gloss atria habens,² is first found in Columella's account of the work of the vilica in the country, who must keep after the atrienses to get them to set forth the dishes, and wipe and keep shining and free from rust things made of iron.³ This type of slave is probably referred to again by Pliny as part of the expense of a pretentious estate.⁴ Phaedrus' fable of the elegant atriensis surely deals with one of this sort.⁵ To this class all the atrienses of the Digest who have been previously discussed probably belonged, as well as most of those in the inscriptions.⁶ Inscriptions dealing with atrienses are colorless for the most part, but one died at the age of twenty,⁷ and another was ex hortis,⁸ both suggesting this type of slave.

Supellecticarius.--Another person in the service of the household was the supellecticarius, who appears in the Digest as a slave - "Idem Celsus eodem libro ait etiam supellecticarios et ceteros hoc genus servos contineri id est ministeria."⁹ - and who surely cared for the furnishings (supellex) of the house. Supellex included furniture, and vessels of silver, bronze, glass and terra cotta.¹⁰ One of the duties of the supellecticarius may very well have been the keeping of the inventory of the supellex to which Varro refers.¹¹ In inscriptions supellecticarii appear who were freedmen.¹² The titles a supellectile¹³ and ad supellectilem¹⁴ were used apparently as equivalent to supellecticarius. In-

¹Schol. Iuv. vii. 7.

²CGL II. 568. 40.

³Col. xii. 3. 9. Though for the most part the atriensis appears in the villa urbana as Ruggiero says (Ettore de Ruggiero, Dizionario Epigrafico (Roma, 1895), s. v.) in this case he is clearly part of the familia rustica.

⁴Plin. Ep. iii. 19. 3.

⁵Phaed. ii. 5. 11.

⁶Any distinction between atriensis and atriarius in the abbreviations atr and atri usual in inscriptions seems quite impossible. A safer procedure is to assume that the humbler ones were atrienses of this last sort.

⁷CIL VI. 9199.

⁸CIL VI. 6241.

⁹Ulp. Dig. xxxiii. 7. 12. 31.

¹⁰Paul. Dig. xxxiii. 10. 3; xxxiii. 7. 18.

¹¹Varro R. R. i. 22. 6.

¹²CIL VI. 4035.

¹³CIL VI. 3719; 4035.

¹⁴CIL VI. 9049.

scriptions that permit the drawing of any inference lead one to the conclusion that a slave with such functions would be found in the mansions of the rich only.¹ One inscription mentions a person called a supellectile and also atrienses.² It is probably true that the supellecticarius was subordinate to the atriensis.³ This inscription, however, offers no evidence to that effect. Another inscription has been used to show that a woman served as supellecticarius.⁴ The inscription is difficult to interpret but its appearance as given by Gori indicates that the supellecticarius was a man.⁵

Ostiarus.--The slave that guarded the door, the ostiarus, is mentioned twice in the Digest as belonging to the instrumentum of an estate. In one case he is associated with the muleteer - "item ostiarium mulionemque."⁶ In the other case he appears with the landscape gardiner, the caretaker of the diaeta, and the water boy - "ostiarum autem inquit, vel topiarum diaetarum aquarum."⁷ This variation of companions gives a fair picture of the ostiarus as we piece it together from references in literature. A purchased slave,⁸ in some cases chained to his post in the vestibule,⁹ his companion a dog,¹⁰ harsh and arrogant, one before whom guests cowered but whom they disdained,¹¹ he was a necessary and valuable guardian of the door.¹² This picture persists from the days of the Republic to the time of Nero, and presents a slave whose lot was hardly enviable. A less unpleasant picture of the ostiarus appears in inscriptions of slaves¹³ and freedmen¹⁴ of the imperial house whose lot was evidently easier, since they had even an organization with decurio¹⁵ and scribe¹⁶ of their own. With these

¹CIL VI. 3719; 8654.

²CIL X. 6638 C.

³Cf. W. E. Waters, Petronius, Cena Trimalchionis (Chicago, 1924), p. 70.

⁴CIL VI. 9049 = 33758. Bormann questions the authenticity of this inscription.

⁵A. F. Gori, Monumentum Liberatorum et Servorum Liviae Augustae (Florence, 1727), p. 160. This appears in CIL VI. 9049.

⁶Ulp. Dig. xxxiii. 7. 12. 9.

⁷Idem, xxxiii. 7. 12. 42.

⁸Sen. De. Ir. iii. 37. 2.

⁹Suet. De Clar. Rhet. iii; Ov. Am. 1. 6. 1.

¹⁰See Note 8.

¹¹Sen. De Const. Sap. xiv. 1.

¹²Varro R. R. 1. 13. 2.

¹³CIL VI. 3995 ff.

¹⁴CIL VI. 8961; 8962.

¹⁵CIL VI. 8962.

¹⁶CIL VI. 8961.

ostiarii we may class those of the later reference of Ulpian. Here too belongs the ostiarius of Petronius,¹ who, when freed from his own peculiar duties in the efficient household of Trimalchio, employed his time shelling peas. To what extent such extraneous duties were provided for the ostiarius and other specialized slaves we have little means of judging.

Cubicularius.--Another person who served in the house was the cubicularius. He was usually a slave and was in the personal service of the master as a citation from Alfenus shows.² A citation from Ulpian shows that the cubicularius was in particularly close touch with the master. Ulpian's words are as follows:

Si patris mortem defendere necesse habuerit, an dicendum sit hic quoque ei succurrendum, si libertum paternum propter hoc accusavit, medicum forte patris aut cubicularium aut quem alium, qui circa patrem fuerat? Et puto succurrendum, si affectione et periculo paternae substantiae ducente necesse habuit accusationem vel calumniosam instituere.³

This last citation shows also that freedmen served as cubicularii.⁴

The Digest gives little information as to the service rendered by cubicularii, but it evidently included the purchase of things for the use of the master, for, with obsonatores and slaves placed in charge of fishermen, they are excepted from the number of those who would be included under the caption of people engaged in trade.⁵ Charisius tells us that the function of the cubicularius was the guarding of the bedroom.⁶ Paulus includes cubicularii among the slaves of the familia urbana,⁷ though it is perfectly clear that the cubicularius upon occasion went where his master went,⁸ even when that involved foreign travel.⁹ The cubicularius seems to have been trusted to a very high degree, not only being permitted to listen in at secret conferences,¹⁰ but even chosen

¹Petr. 28. 8.

²Alf. Var. Dig. L. 16. 203. See Chapter I, Note 3, p.28.

³Ulp. Dig. xxxviii. 2. 14. 7.

⁴Inscriptional evidence shows that both slaves and freedmen served as cubicularii (CIL VI. 8777-8; 8782-3; 8789; 8794). Freedmen only seem to have been called a cubiculo.

⁵Marcian. Dig. xxxii. 65. See Chapter I, Note 3, p. 13.

⁶Char. Gramm. 1. 76.

⁷Paul. Sent. iii. 6. 72.

⁸Amm. xxvii. 10. 11.

⁹Suet. Iul. 4.

¹⁰Suet. Tib. 21.

to carry out designs of the master that could be entrusted to no one else.¹ We find cubicularii constituting the jury that tried a dispensator in the house of Trimalchio.² The effect of this position of preference on the cubicularii themselves was threefold as was to be expected. In certain cases they were held responsible for the advantage that their position gave them and were tortured to exact confession if anything went wrong with the master.³ In the Digest we find that this occurred even in the case of a freedman.⁴ In other cases the cubicularius was impressed with the importance of his position and showed it by a lofty manner,⁵ which proved particularly irritating inasmuch as he seems to have been the person through whom admission to the presence of the master was arranged.⁶ In this last function he may have proved not only haughty but venal.⁷ Finally cases occurred in which cubicularii became so tyrannical even over the masters themselves that the masters asserted their power and disposed of the cubicularii involved.⁸ In a late period in the imperial palace when the regimentation was great, cubicularii were subject to a grand chamberlain, praepositus sacri cubiculi, subsequently to the master of the offices.⁹

Cubicularii seem to have served women as well as men.¹⁰ In royal households they were so numerous that they were divided into stationes.¹¹ A slave called supra cubicularios had the oversight and direction of these cubicularii.¹² A freedman called a frumento cubiculariorum appears, who probably provided food for

¹Suet. Ner. 38. ²Petr. 53. ³Quint. Decl. 328.

⁴Ulp. Dig. xxxviii. 2. 14. 7. See Note 3, p. 45.

⁵See Note 11, p. 44. ⁶Cic. Att. vi. 2. 5.

⁷Cic. Ver. iii. 4. 8. ⁸Lampr. Com. xv. 1, 2.

⁹A. E. R. Boak, The Master of the Offices in the Later Roman and Byzantine Empires (New York, 1919), pp. 27, 40.

¹⁰Apul. Met. x. 28 (Oud. 732); Porph. Hor. Car. i. 37. 9.

¹¹CIL VI. 8774; 8775. Marquardt (Privatleben, p. 144) thinks that these stationes consisted of those on night duty and of those on day service. Friedländer once thought that the basis of assignment was nearness to the person of the emperor (1st ed. Leipzig, 1881, p. 100). In subsequent editions, including the revision by Wissowa, the statement is made that the basis of assignment is not clear (L. Friedländer and G. Wissowa, Darstellungen aus der Sittengeschichte Roms, (Leipzig, 1919), p. 59). There is no evidence on which to base an opinion. The fact that inscriptions refer chiefly to members of the Statio Prima leads one to believe that membership in that statio was a higher honor.

¹²CIL VI. 8766.

them.¹ Another freedman called ab aegris cubiculariorum is found in an inscription.² There was a collegium of cubicularii, probably a burial association.³

Diaetarius.--Another slave who served about the house was the diaetarius. Ulpian in listing the contents of the instrumentum of an estate says: "Ostiarii autem....vel topiarii diaetarii aquarii domui, tantum deservientes continebuntur."⁴ No evidence as to the duties of the diaetarius appears, but it is clear that he was in charge of a diaeta. In the usual usage a diaeta was a room⁵ or an apartment⁶ in a house, either upstairs⁷ or down,⁸ or a room or rooms built in the garden apart from the house.⁹ The context of the passage in which diaetarius appears, since it is flanked on one side by topiarius and on the other by aquarius, suggests that the diaetarius that the jurist had in mind may have been in charge of a room or rooms in the garden. Paulus, however, using not diaetarius to be sure, but its equivalent zetarius, offers a context that suggests a slave in charge of an apartment.¹⁰

The word diaeta is used to denote the cabin of a ship also.¹¹ In the Digest there is reference to a diaetarius connected with that sort of diaeta. Ulpian states expressly that his function was that of guardianship, that he was a person to whom one could entrust his belongings with the expectation of their being kept safely, and that he was appointed by the manager (exercitor) of the ship. Ulpian's words are as follows:

Et sunt quidam in navibus, qui custodiae gratia navibus praeponuntur, ut ναυφύλακες et diaetarii. Si quis igitur ex his receperit, puto in exercitorem dandam actionem, quia is, qui eos huiusmodi officio praeponit, committi eis permittit, quamquam ipse navicularius vel magister id faciat, quod χερεμβολος appellant.¹²

Focarius.--The focarius was another slave of the household. He appears but once in the Digest.¹³ There focarii are

¹CIL VI. 8771-2.

²CIL VI. 8770.

³CIL VI. 8771; 8767.

⁴Ulp. Dig. xxxiii. 7. 12. 42.

⁵Plin. Ep. ii. 17. 12.

⁶Plin. Ep. v. 6. 31.

⁷Dig. xxxix. 5. 32.

⁸See Note 5.

⁹Dig. xxx. 43. 1; Stat. Silv. ii. 2. 83.

¹⁰Paul. Sent. iii. 6. 58.

¹¹Petr. 115.

¹²Ulp. Dig. iv. 9. 1. 3.

¹³Idem, Dig. iv. 9. 1. 5. See Note 2, p. 41.

classed as mediastini, slaves whose duties were menial, and as slaves working in inns were especially excepted from responsibility for belongings of patrons. We judge that there was a collegium of focarii from a reference to Genius collegi (f)ocariorum.¹ There is no evidence as to the duties of the focarius, but one assumes from the word itself and the evidence above that he had the care of the hearth, carried wood and kept the fires going.

Focaria.--The focaria is mentioned more frequently than the focarius both in the Digest and elsewhere. In one citation, with the vilica, she is mentioned as belonging to the instrumentum of an estate - "item focariam et vilicam, si modo aliquo officio virum adiuvet."² In a second case she is mentioned among workers who shared in the preparation of wool.³ In this case she may have kept the fires going for washing the wool and for the fullers. In both these cases we are dealing with a slave on an estate. The focaria, however, like the focarius, is expressly mentioned in the transfer of an inn, a bakery, or shops connected with them - "'quae tabernarum exercendarum instruendarum pistrini cauponae causa facta parataque sunt, do lego,' his verbis Servius respondit et caballos, qui in pistrinis essent, et pistores, et in cauponio institores et focariam mercesque...legatas videri."⁴ Paulus lists the focaria as part of the instrumentum of a bakery - "conservandorum fructuum causa comparata instrumento cedunt, veluti dolia....pistores, asini, focariae."⁵ The common function in these various situations may have been keeping up fires and she may have carried wood for that purpose.

The word focaria appears in the Vulgate equivalent to μαγειρία which appears in the Septuagint, and is rendered cook in the English versions.⁶ Express mention of cooks by Ulpian almost immediately before the first mention of the focaria offers some evidence against the possibility of such interpretation here,

¹W. Brambach, Corpus Inscriptionum Rhenanarum (Elberfeldae, 1867), 2041 add.

²Ulp. Dig. xxxiii. 7. 12. 5.

³Idem, Dig. xxxiii. 7. 12. 6. See Chapter II, Note 6, p. 34.

⁴Pompon. Dig. xxxiii. 7. 15.

⁵Paul. Sent. iii. 6. 37.

⁶I Kings 8: 13. The word cook appears in English versions from Coverdale (1535) to and including the American revision by Smith (1931).

though it is hardly conclusive.¹ The word appears in the Codex of Justinian² and in inscriptions³ with the meaning soldier's concubine.

Fornacarius Servus.--In the one case in which the fornicarius (sic) servus appears, he is the slave of a peasant farmer. He fell asleep at the furnace. The fire, unwatched, set fire to the villa and it burned. He did not necessarily lay the fire, but served as guardian of it. The judgment of the jurist is that he should have put out the fire or should have provided such protection that it could not spread, if he was to yield to a natural human weakness. Not having done so, he was responsible for the burning of the farm-house. Ulpian's words are as follows:

Si fornicarius servus coloni ad fornacem obdormisset et villa fuerit exusta, Neratius scribit ex locato conventum praestare debere, si negligens in eligendis ministeriis fuit: ceterum si alius ignem subiecerit fornaci, alius negligenter custodierit, an tenebitur qui subiecerit? Nam qui custodit, nihil fecit, qui recte ignem subiecit, non peccavit: quid ergo est? Puto utilem competere actionem tam in eum qui ad fornacem obdormivit quam in eum qui negligenter custodit, nec quisquam dixerit in eo qui obdormivit, rem eum humanam et naturalem passum, cum deberet vel ignem extinguere vel ita munire, ne evagetur.⁴

Beyond this we know nothing of the fornacarius servus or his work. Was his yielding to sleep indication of night work, of long hours of monotonous and unexacting labor, or of warmth and quiet after hard work out of doors, such as one would expect from a single slave of a poor man? Of this there is no hint. Likewise nothing is known as to what sort of fornax he was supposed to watch. It may have been one for heating the bath of the villa as Mau thinks.⁵ If so, one wonders that the slave of the colonus was watching it and feels that normally some one other than a colonus would be in charge of a villa pretentious enough to have a bath. On the other hand this slave may have been the wood gatherer for the furnace used for baking bread, as the focarius was for the stove of the house, as Marquardt thinks.⁶ The word fornax appears with reference to that type of furnace⁷ and this with certain drawings of

¹See Note 2, p. 48.

²Cod. Iust. v. 16. 2.

³CIL XI. 39. See also Or. 2671.

⁴Ulp. Dig. ix. 2. 27. 9.

⁵A. Mau, PW s. v. Fornax.

⁶Marquardt, Privatleben, p. 146, note 4.

⁷Lact. 1. 20. 35; Ov. Fasti 11. 523-6; vi. 313-4; 349, 350.

such a furnace¹ lend credence to this latter view.

Aquarius.--In addition to these attendants who served in the house, workmen appear in the Digest whose service was rendered outside of the house. One of these was the aquarius. He appears once only in the Digest.² In that passage he is clearly a slave and is classed among slaves whose work was specialized and of a less unpleasant type. All of them were probably workers in a pleasure garden and this aquarius may have been a water boy who used sprinkling jars of the type that are found surviving.³ Paulus refers to an aquarius of this same sort in a like context when he says: "Domo cum omni iure suo sicut instructa est legata urbana familia, item artifices et vestiarii et zetarii et aquarii itidem domui servientes legato cedunt."⁴

While this legal evidence presents a rather clear and simple picture, on the whole it is rather difficult to ascertain either the functions or the status of an aquarius. Though the word does not appear in Plautus, very menial functions are outlined for a person who might well be called an aquarius. The description is as follows:

dabitur tibi amphora una et una semita,
fons unus, unum ahenum et octo dolia:
quae nisi erunt semper plena, ego te implebo flagris.
ita te aggerunda curvom aqua faciam probe
ut postilena possit ex te fieri.⁵

In the time of Cicero a slave who did the sprinkling, but again is not called aquarius is listed as under the direction of the atriensis.⁶ Juvenal also gives the aquarius a very low rating, the aquarius in this case being either a hired freeman or a hired slave.⁷ No hint of the function of the aquarius is given in Juvenal. These cases are all apparently aquarii of the city. The Digest itself gives evidence that in the country, too, there may have been work quite as humble and as onerous, though here again the person who did the work is not named - "vas aenum, in quo sapa coqueretur et defrutum fiat et aqua ad bibendum lavandamque familiam paratur."⁸

¹DS s. v. Furnus.

²Ulp. Dig. xxxiii. 7. 12. 42. See Note 7, p. 44.

³DS Fig. 7012, s. v. Topiarius. ⁴Paul. Sent. iii. 6. 58.

⁵Plaut. Cas. 121-125. ⁶See Note 3, p. 40.

⁷Iuv. vi. 332.

⁸Ulp. Dig. xxxiii. 7. 12. 10.

On the estates in the country and probably also in the imperial palaces there seem to have been slaves serving as aquarii who had a higher status and less menial duties than those just discussed, possibly attending to the connections with aqueducts and the entire province of water supply rather than serving as mere water carriers.¹ To this class the aquarii mentioned by Ulpian and Paulus may possibly have belonged. The freemen who patrolled the aqueducts and controlled the tapping of aqueducts in their assigned territory also were called aquarii.² Even these aquarii were rated by Caelius among tabernarii as dregs of society.³

The Edict of Diocletian fixed the wages of the aquarius at twenty five denarii per day when working.⁴ Whether this aquarius was the man who patrolled the aqueducts or one working on a private estate is not clear. The business at least was that of a freeman or a slave hired out by his master.

Topiarius.--Another workman who rendered service outside the house was the topiarius, who served as landscape gardener - "topiarium enim ornandi....fundi magis quam colendi paratum esse."⁵ Topiarii were usually slaves - "instrumento fundi saltuarium et topiarios."⁶ Freedmen, however, appear in inscriptions who were topiarii.⁷ The topiarius potted and watered plants - "Dolia fictilia, item plumbea, quibus terra adgesta est, et in his viridiaria posita aedium esse Labeo Trebatius putant";⁸ "Si etiam viridiaria sint, topiarii."⁹ He planted and landscaped pleasure gardens,¹⁰ protected plants from pests and parasites, trimmed trees and bushes into shapes of animals, and trained vines.¹¹ The necessity for apprenticeship, the fact that he was a skilled workman, and the pleasant nature of the work may have placed the topiarius among slaves of higher rank. Evidence of this is lacking, however, inasmuch as the passage from Cicero¹² cited by La Faye¹³ as evidence is an interpolation rejected in

¹CIL VI. 7973; 8653.

²Frontin. De Ag. ix.

³Cic. Ad. Fam. viii. 6. 4.

⁴Edict. Diocl. vii. 31.

⁵Alf. Dig. xxxii. 60. 3.

⁶Marcian. Dig. xxxiii. 7. 17. 2.

⁷CIL VI. 4360; 7300.

⁸Iavol. Dig. xxxiii. 7. 26.

⁹Ulp. Dig. xxxiii. 7. 8. 1.

¹⁰Col. x.

¹¹Plin. N. H. xvi. 76; Firm. Math. viii. 10. 6.

¹²See Note 3, p. 40.

¹³La Faye, DS s. v. Hortulanus.

later texts. The watering of plants was in some cases probably done by a water boy, the aquarius.¹ The topiarius had other slaves learning the business from him.²

The word topiarius appears in the time of Cicero.³ It occurs more often in the time of the empire, usually in connection with temple gardens, the imperial gardens, and the villas of the wealthy.⁴

Ornatrici.--The group of occupations just discussed is concerned chiefly with the care of the house. Another group appears consisting of people who primarily rendered personal service to those dwelling in the house. One of these is the ornatrix who probably served as lady's maid. The ornatrix that appears in the Digest was a slave. Marcianus makes clear that she was a trained servant and says that no slave in training could reach a point of proficiency such as to justify her being classed among skilled ornatrices in two months or less. He adds, however, that some jurists granted that slaves in training for a shorter time should be classed as ornatrices in the matter of legacies. Marcianus says: "Ornatricibus legatis Celsus scripsit eas, quae duos tantum menses apud magistrum fuerunt, legato non cedere, alii et has cedere, ne necesse sit nullam cedere, cum omnes adhuc discere possint et omne artificium incrementum recipit."⁵ In Suetonius we find reference to a freedwoman who served as ornatrix.⁶

We have some evidence as to the actual work of the ornatrix. The word acus is defined by Festus as "qua sarcinatrix vel etiam ornatrici utitur."⁷ A note in Servius's comment on the Aeneid which says: "nam calamistrum est acus maior, quae calefacta et adhibita interquet capillos"⁸ leads us to interpret the acus to which Festus refers as a curling iron. The curling iron, then, of which we have examples and illustrations, was one thing that she used.⁹ There is good evidence also for the use of the acus crinalis,¹⁰ which Ulpian mentions cum margarita.¹¹ This was the

¹Ulp. Dig. xxxiii. 7. 12. 9. See Note 6, p. 44.

²CIL V. 5316.

³Cic. Ad Q. F. iii. 1. 5.

⁴CIL X. 1744; VI. 9082.

⁵Marcian. Dig. xxxii. 65. 3.

⁶Suet. Claud. 40.

⁷Paul. ex Fest. p. 8 L.

⁸Serv. Aen. xii. 100.

⁹DS Fig. 992, s.v. Calamistrum; Gori, Insc. Etr. I. p.10. The latter appears with illustration indicated in CIL XI. 1471.

¹⁰Apul. Met. viii. 13.

¹¹Ulp. Dig. xxxiv. 2. 25. 10.

property of the mistress to be sure but surely used by the ornatrix in performing the functions of her trade. A tombstone of an ornatrix has on one side a comb, on the other a hairpin.¹ From all this we infer that she was chiefly a hairdresser. In that capacity the ornatrix called ornatrix puerorum probably served.² But she did more than dress hair. A scene from the Mostellaria in which the word ornatrix does not appear presents a slave who may have been an ornatrix.³ In that scene bleaches, rouge, and creams are noted.⁴ A scholium on Juvenal mentions ornatrices as though their presence in the service of the mistress was to be taken for granted.⁵

Nutrix.--Another person in personal service was the nutrix. Usually the nutrix that appears in the Digest is a slave as in the following citations: "Stichus nutricis meae nepos liber esto";⁶ "Si minor annis viginti manumittit, huius modi solent causae manumissionis recipi....";⁷ "si educator, si paedagogus ipsius, si nutrix....dummodo non minor annis decem et octo sit."⁸ In one case two nutrices appear who have the names of freewomen and have legacies willed to them. The word may be used here as the feminine of nutritor,⁹ in which case they were really foster mothers of the child, or they may have been slave nurses who had been set free. The passage is as follows:

Qui Semproniam ex parte decima et Maeviam ex parte decima, alumnum ex reliquis partibus instituerat heredes, curatorem alumno dedit, cum iure facere putaret: et curatoris fidei commisit ne pateretur fundum venire, sed cum Sempronia et Maevia nutricibus suis frueretur redditu eius.¹⁰

One citation makes it clear that the nutrix fed children from her own breast:

Ad nutricia quoque officium praesidis vel praetoris devenit: namque nutrices ob alimoniam infantium apud praesides quod sibi debetur petunt. Sed nutricia eo usque producemus quoad infantes uberibus aluntur: ceterum post haec cessant partes praetoris vel praesidis.¹¹

¹CIL VI. 9727.

²CIL X. 1941.

³Plaut. Most. 157 ff.

⁴On the use of cosmetics see O. Wilner, "Roman Beauty Culture," C. J. XXVII (1931), pp. 26-38.

⁵Sch. Iuv. vi. 477.

⁶Scaev. Dig. xxxiv. 1. 20.

⁷Ulp. Dig. xl. 2. 11.

⁸Ibid. 13.

⁹Scaev. Dig. xxxiii. 7. 27.

¹⁰Idem, Dig. xxxiii. 2. 34. 1.

¹¹Ulp. Dig. L. 13. 1. 14.

Nurses were supplied to the children of dotal maidservants and any expense incurred in providing them was rightly charged to the dowry. Paulus's word are: "Si quid in pueros ex ancillis dotalibus natos maritus impenderit aut in doctrinam aut alimenta, non servatur marito....sed illud servatur quod nutrici datum est ad educendum."¹ An allowance for maintenance for a nurse was judged a prior claim against an owner - "Qui iam testato conventus a Procula nutrice Thetidis in solvendis alimentis respondit non se habere, unde alimenta eiusdem exsolvat, sed debere eam patri suo restituere Lucio Titio....Seiae Proculae solutis alimentis."² The nutrix of one's infancy served also when one was grown.³ The nurse is listed in a context that connotes a close tie of affection even when the child that she had nursed had become a man.⁴ In another case the nurse seems to have pressed claims for the welfare of the child that she had cared for in infancy.⁵

This picture of the nurse drawn from the Digest is, on the whole, the same as that drawn from literature. The relegation of the child to the ministrations of a nurse instead of those of its own mother is adversely commented on by more than one Roman writer.⁶ As an institution of Roman life, however, the nutrix was accepted.⁷ She continued to serve her charge far beyond the age of childhood.⁸ The nurse of Domitian cared for his body even after his murder.⁹ The nurse was retained and regarded with affection,¹⁰ and her presence was a mark of honor to such an extent that Juvenal pictures Ogulnia as hiring a nurse with other things that would mark her as a woman of means and honor.¹¹

As to the actual services of the nurse, we find that she sang to children,¹² that she told them stories,¹³ that she consciously influenced their ideas and conduct.¹⁴ She fed them¹⁵ and taught them to eat, even putting in their mouths food that she

¹Paul. Dig. xxiv. 1. 28.1. ²Idem, Dig. xli. 7. 8.

³See Note 2 and Note 8, p. 53. ⁴See Note 8, p. 53.

⁵See Note 2. ⁶Tac. Ger.xx; Dial. 29; Gell. xii. 1.

⁷Cic. Tusc. iii. 1. 2; Quint. Inst. i. 1. 11.

⁸Liv. iii. 44. 7; Apul. Met. viii. 10.

⁹Suet. Dom. 17.

¹⁰Aen. iv. 632-3.

¹¹Iuv. vi. 354.

¹²Pers. Sat. iii. 18.

¹³Tib. 1. 3. 85; Lucr.v. 230.

¹⁴Iuv. xiv. 208.

¹⁵Maer. Sat. v. 11. 15.

had chewed for them.¹ Greek sources picture her as pacifying the child by striking the stone over which the child had stumbled,² and Galen states with approval that a nurse may put a restless child to sleep by nursing it, by moving it - the ancient version of rocking it, one judges - or by singing to it.³ Quintilian pleads for excellence of diction as well as excellence of character in the nurse.⁴

Educator.--Personal service was rendered by the educator also. He appears once in the Digest, in a list of slaves that a master less than twenty years old may manumit.⁵ Virtually the same list appears in a like situation in the Institutes and in it the educator again is found.⁶ Gaius in a similar situation gives a very brief list, which contains the paedagogus but not the educator.⁷ No hint as to the function of the educator is given other than the fact that he appears with the paedagogus and nutrix and set apart from the alumnus. The word appears in inscriptions and in the works of Latin authors also opposed to alumnus.⁸ An inscription referring to Nicomedes, who is called educator in the life of Verus,⁹ uses the word nutritor to identify his service.¹⁰ This is evidence that the word is equivalent to nutritor.¹¹ This idea is further suggested by the appearance of the word educator with the verb nutrio.¹² This evidence leaves the impression that slave educatores were responsible for the general care of the child. In this they are to be differentiated from paedagogi, who were responsible for attending the boy and assisting in his formal training.¹³ Free-born educatores are mentioned who were foster

¹Cic. De Orat. ii. 162.

²Epiet. Diss. iii. 194.

³Galen, De San. Tuend. i. 8 (Kühn, Vol. VI).

⁴Quint. Inst. i. 1. 11.

⁵Ulp. Dig. xl. 2. 13. See Note 8, p. 53.

⁶Inst. i. 6. 5.

⁷Gaius, Inst. i. 19; 39.

⁸CIL VI. 15983; 16844; Tert. Adv. Marc. i. 23.

⁹Capitol. Ver. ii. 9.

¹⁰CIL VI. 1598.

¹¹See also W. M. Lindsay, Glossaria Latina (Paris, 1926), II Abav. ED. 12.

¹²Lact. Inst. ii. 11. 9.

¹³This differentiation of paedagogus and educator is made in spite of Furneaux's note (H. Furneaux, The Annals of Tacitus (Oxford, 1907), xi. 1. 2 et al.) on the basis of Inst. i. 6. 5.paedagogum, nutricem, educatorem.

fathers of the boy.¹ All passages which offer any evidence at all indicate that the educator was held high in the esteem and affection of the man whom he had served.²

Paedagogus.--Another member of the group that rendered personal service was the paedagogus. He appears in the Digest as the personal attendant of Roman boys. He was considered so important a part of a Roman household that objection was raised to freeing one who was to be manumitted in accordance with a will on the ground that the heir's need of him was so great that it was not expedient for him to be deprived of his services - "Gaii Cassii non est recepta sententia existimantis et heredi et legatario remittendam interdum proprii servi manumittendi necessitatem, si vel usus tam necessarius esset ut eo carere non expediret, veluti dispensatoris paedagogive liberorum."³ The paedagogus was one of the slaves that a youth between the ages of eighteen and twenty was permitted to free.⁴ Apparently paedagogi attended not only children but the women of the household upon occasion. They are expressly mentioned as one class of such comites by Ulpian, who says: "Inter comites utique paedagogi erunt."⁵

Roman literature gives an even stronger picture of the general prevalence and prominence of the paedagogus in Roman life. In spite of the statement of Plutarch,⁶ corroborated by Tacitus,⁷ that bad slaves were chosen for the office though they should be upright ones only, on the whole the impression that we gain of the paedagogus is favorable. He accompanied the boys to school and listened in on the lessons that they learned there.⁸ He went to the theater⁹ and to the tribunal¹⁰ with his charges. So closely were paedagogi identified with their charges that they were slain with them in a general slaughter.¹¹ When a single boy was murdered, his paedagogus too lost his life in his effort to pro-

¹Tac. An. xv. 62; Capitol. Ver. 11. 9; Val. Max. 11. 2. 9.

²Cic. Planc. 81; Sen. Ben. 111. 17. 4; CIL II. 4319.

³Maecian. Dig. xl. 5. 35.

⁴Ulp. Dig. xl. 2. 13. See Note 8, p. 53.

⁵Idem, Dig. xlvii. 10. 15. 16.

⁶Plut. De Lib. Ed. vii.

⁷Tac. Dial. de Orat. xxix.

⁸Suet. De Gram. 23.

⁹Suet. Oct. 44.

¹⁰Quint. Inst. vi. 1. 41.

¹¹Suet. Ner. 36.

tect his charge.¹ The paedagogus continued to serve his charge at times far beyond the usual period of childhood.²

The methods whereby the paedagogus trained the child in the way he should go were often open to censure. He scolded,³ he tweaked ears,⁴ he pinched,⁵ he used the ferule,⁶ he went about with vinegary aspect,⁷ he sometimes carelessly failed to hold the youth to right performance, then punished him for his lapses.⁸ In spite of this array of pedagogical sins, which are ascribed in their entirety to no single paedagogus, the paedagogus performed a function in the field of the inculcation of manners and morals that met the approval of Seneca, who was no mean judge of moral training.⁹ As a final exhibit of the paedagogus at his best we may cite the inscription that has been found on the tombstone of one paedagogus, an inscription which despite any granted charge of smugness and complacency must be granted also a standard of moral value worth inculcating into Roman youth. The pertinent part of the inscription is as follows:

vixi quam diu potui sine lite
sine rixa sine controversia
sine aere alieno amicis fidem
bonam praestiti peculio
pauper animo divitissimus¹⁰

The paedagogus¹¹ who was in charge of a paedagogium does not appear in the Digest. Reference is made there, however, to the paedagogium.¹²

¹App. B. C. iv. 30.

²Suet. Claud. 2.

³Plut. Cat. Maior, 20; Suet. Ner. 36.

⁴Plut. loc. cit.

⁵See Note D, p. 56.

⁶Mart. x. 62.

⁷Suet. Ner. 37.

⁸Quint. Inst. 1. 3. 15.

⁹Sen. Ep. 94. 8, 9; 25. 6; 89. 13; 60. 1.

¹⁰CIL VI. 8012.

¹¹CIL VI. 8968-75. A subpaedagogus appears in CIL VI. 8976, a praeceptor puerorum in CIL VI. 8978.

¹²Ulpian says that if an estate was willed with its equipment there were included the paedagogia, training schools which the master had there that there might be attendants in the dining room when he came - "ea paedagogia, quae ibi habebat, ut, cum ibi venisset, praesto essent in triclinio." (Dig. xxxiii. 7. 12. 32). Paulus includes among necessary expenses doctrina puerorum (Dig. L. 16. 79. 1). The statements of the Digest admit of the view, at least, that paedagogia existed that were institutions of a well ordered house to keep things functioning smoothly. In literature the picture of the paedagogium consisting of delicati is far more prominent. Probably both sorts existed, the kind depending not on the time, but on the master that maintained it.

Capsarius.--The capsarius also was engaged in personal service. He appears in the Digest in three very different capacities, which will be discussed in turn.

One type of capsarius appears who is accurately defined in the Digest as a slave who carried books, in this case, the context makes clear, the books of a schoolboy - "si...vel capsarius (id est qui portat libros)."¹ In two other cases in Latin literature such a capsarius appears.² A gloss καμπιτροφόρος indicates the same sort of service.³

The second sort of capsarius was a slave of a bath who for a fee guarded the clothes of the bathers. Paulus's words concerning this capsarius are: "Adversus capsarios quoque, qui mercede servanda in balineis vestimenta suscipiunt, iudex est constitutus, ut, si quid in servandis vestimentis fraudulenter admiserint, ipse cognoscat."⁴ While the Digest does not expressly say that he was a slave, one infers from the context that he was. Inscriptions show capsarii who were slaves,⁵ one who was a freedman,⁶ and one freeman.⁷ It is impossible to judge, however, what sort of capsarius each was, and inscriptions are few. A gloss for capsarius gives as its equivalent είματοφύλαξ.⁸ The fee of the capsarius according to the Edict of Diocletian was two denarii per person.⁹ That is a relatively high fee and may have been set that a responsible person might be placed in charge of the service. The citation from the Digest relates that a special judge had been given cognizance of capsarii to prevent fraudulent practices in the guarding of clothes. Numerous references in literary sources make it clear that the clothes intrusted to the slaves were stolen.¹⁰ In some cases the capsarius was not a bath slave at all, but one from the establishment of the master.¹¹ Even he seems to have stolen garments left in his charge.¹²

The last type of capsarius was not a slave at all, but was in the army. Of these capsarii Tarruntenus Paternus says:

¹Ulp. Dig. xl. 2. 13.

²Suet. Ner. 36; Aug. in Ps. xl. 14. The name does not appear, but the function is indicated in Iuv. x. 117.

³CGL III. 199. 16.

⁴Paul. Dig. 1. 16. 3. 5.

⁵CIL VI. 6245.

⁶CIL VI. 7368.

⁷CIL V. 3158.

⁸CGL III. 307. 60.

⁹Edict. Diocl. vii. 75.

¹⁰Petr. 92. 7; Dig. xlvii. 17; Tert. De Fug. xiii.

¹¹Petr. 30.

¹²Ibid.

"Quibusdam aliquam vacationem munerum graviorum condicio tribuit, ut sunt....capsarii."¹ Inscriptions appear which indicate that the capsarius was actually a soldier.² What his duties were we do not know, but they seem to have required some skill, as we find apprentices mentioned in an inscription.³

Nomenclator.--Another person whose service was distinctly personal was the nomenclator. The jurists that mention him in the Digest were especially interested in the fact that his was a service that youth could render. In one case the young person was a slave - "Potest tamen et impubes operas dare, veluti si nomenclator sit vel histrio."⁴ In the other case he was a freedman - "Dabitur et in impuberem (libertum), cum adoleverit, operarum actio: sed interdum et quamdiu impubes est....si forte....vel nomenclator."⁵ This matter of youth is mentioned by Pliny also.⁶ Seneca mentions a little old fellow who served as nomenclator who failed to remember names and substituted others.⁷ The reason for the use of younger persons for the work is thus made clear, the necessity for a good memory. The point is emphasized repeatedly by Latin authors.⁸ Failure to remember seems to have been fairly common,⁹ and the substitution of another name to cover the failure was the usual remedy.¹⁰

The services that the nomenclator rendered were various. He was expected to know the names of the people the master would meet.¹¹ He whispered information to the master,¹² and nudged him by way of warning when he was expected to recognize someone.¹³ He was sent upon occasion to seek out a person that his master wanted.¹⁴ In large establishments he alone knew the names of all the slaves.¹⁵ He gave information about food at dinners.¹⁶ He ren-

¹Tarr. Pat. Dig. L. 6. 7 (6). ²CIL XIII. 5623.

³CIL VIII. 2553. This interpretation seems valid rather than that of L. Renier, Inscriptions romaines de l'Algérie (Paris, 1855-1886), n. 63.

⁴Venul. Dig. xl. 12. 44. 2. ⁵Ulp. Dig. xxxviii. 1. 7. 5.

⁶Plin. Ep. ii. 14. 6. ⁷Sen. Ep. 27. 5.

⁸Sen. Ben. vi. 33. 4; Plin. N. H. xxix. 19.

⁹Macr. Sat. ii. 4. 15. ¹⁰Sen. Ben. i. 3. 10.

¹¹Cic. Att. iv. 1. 5; Hor. Ep. i. 6. 49.

¹²Sen. De Brev. Vit. xiv. 4. ¹³Hor. Ep. i. 6. 49-51.

¹⁴Quint. Inst. vi. 3. 93. ¹⁵Plin. N. H. xxxiii. 6. 26.

¹⁶Petr. 47. 8.

dered service at the salutatio¹ as well as when the master was away from the house.² In some cases he reached a position so influential that he admitted or refused to admit visitors³ and dispensed invitations to dinner.⁴ Some nomenclators treated guests with haughty disdain.⁵ Others even received bribes from them.⁶ In this picture of progression from service to domination, it is a relief to find that not all masters were so dominated by the nomenclator. We are told, for example, that Hadrian gave names without his assistance and even corrected the nomenclator.⁷

Most nomenclators served men of prominence in the state, men of wealth, or members of the imperial family. One case appears, however, in which a nomenclator was the slave of a woman.⁸

Tonsor.--Another group that rendered personal service within the house was the slaves who served as barbers. Barbers on the whole, however, operated outside the home and are discussed, accordingly, among those that ply their trade apart from the household.

Cursor.--In addition to groups of people who rendered service within or about the house directly concerned with the upkeep and care of the house and premises and to those who served the occupants of the house, we find a group whose field of service was entirely out of the house. One member of this group was the cursor. He appears once only in the Digest, and we learn then that he was a slave and, in some instances at least, a slave born on the premises. Paulus says: "Si alii vernae, alii cursores legati sunt, si quidam et vernae et cursores sint, cursoribus cedent: semper enim species generi derogat."⁹ Glosses indicate that there were two types of cursores, those who were literally runners, who carried messages or letters speedily, defined by the word ταχυδρομοι,¹⁰ and those who served as attendants of the master, pedisequi according to the gloss.¹¹ Cursores of the former kind appear at all periods of Roman history. Such messengers appear in

¹Sen. Ep. 19. 11.

²Cic. Att. iv. 1. 5.

³Sen. De Tran. An. xii. 6.

⁴See Note 1.

⁵See Note 11, p. 44.

⁶Lucian. De Merc. Cond. 10; Amm. xiv. 6. 15.

⁷Spart. Had. 20. 9.

⁸Suet. Oct. 19.

⁹Paul. Dig. xxxii. 99. 5.

¹⁰CGL II. 452. 19.

¹¹CGL V. 283. 10.

comedy,¹ and are common in imperial times.² The special sandals whose price is listed in the Edict of Diocletian were probably for this type of cursor.³ The cursores who received training in the house of Trimalchio may have been of this type,⁴ though inscriptions referring to an exercitator⁵ and doctor cursorum,⁶ who seem to have been trainers of cursores in attendance upon the master, suggest that type of cursor there also.

The cursores who appear as escorts of emperors or private citizens are found in imperial times. Usually they were mounted,⁷ were themselves splendidly arrayed,⁸ and on horses handsomely caparisoned.⁹ As a rule a large number of cursores preceded the master,¹⁰ but cases occur from which one may judge that a single attendant rode ahead.¹¹ The collegium of cursores and Numidians rather certainly consisted of cursores of this type.¹²

A cursor ludi magni¹³ and cursor factionis prasinæ et supra cursores¹⁴ seem to have been venatores, possibly mounted,¹⁵ who fought with beasts in the arena. It is possible that the cursores to whom, with the venatores, the little pig willed his ankle-bones were cursores of this type,¹⁶ though they are usually interpreted as runners of the first type.¹⁷

Pedisequus.--Another attendant of the master's when he went forth from the house was the pedisequus.¹⁸ Pedisequi, who

¹Plaut. Poen. 546.

²Suet. Ner. 49; Tit. 9; Apul. Met. x. 5 (Oud. 688).

³Edict. Diocl. ix. 14. See Blümner, Maximaltarif, p. 128.

⁴Petr. 29. 7.

⁵CIL VIII. 12622; 12905.

⁶CIL VIII. 12904.

⁷Suet. Ner. 30.

⁸Mart. iii. 47. 13.

⁹See Note 7.

¹⁰Sen. Ep. 87. 9; 123. 7.

¹¹Mart. xii. 24; Lampr. Alex. 42. 2.

¹²CIL VIII. 12905 and Note 10. Mommsen offers an entirely different interpretation. See CIL VIII. Sup. 1, p. 1337.

¹³CIL VI. 10165.

¹⁴CIL VI. 33944; 33950.

¹⁵Sen. Ep. 87. 9.

¹⁶Testamentum Porcelli.

¹⁷See TLL s. v. Cursor.

¹⁸That the pedisequus himself went on foot is clear. When the master travelled outside the city he was attended by cursores (See Cursor). Chapot (DS s. v. Servi, p. 1276) thinks that the pedisequus attended him in the city whether he walked or went by litter. In favor of this opinion is the fact that the pedisequa surely accompanied the mistress when in her litter (See Pedisequa).

both in the Digest and in other references to them¹ appear in groups and never as a single individual, were slaves who were disposed of by will in cases reported in the Digest. Papinianus mentions them in the following words: "Idem in familia erit sive.... legaverit ac postea servorum officia vel ministeria mutaverit. Eadem sunt lexicariis aut pedisequis legatis."² One testator who left his attendants to care for a temple requested the heir to give them a monthly allowance of provisions and a yearly allowance of clothing - "peto fideique tuae committo, des praestes in memoriam meam pedisequis meis, quos ad curam templi reliqui, singulis menstrua cibaria et annua vestiaria certa."³ This seems to have been a humane provision for slaves to whom the master was attached. The pedisequus as a rule, however, does not seem to have been rated very highly by the Roman world. In the Poenulus it is suggested that pedisequi rushed to the wine shop while the plays went on.⁴ When Nepos mentions the fact that Atticus had all his slaves trained to read aloud and transcribe, we are told that even pedisequi were so trained, the implication being that this was a surprising achievement.⁵

Pedisequa.--The pedisequa also served outside the house. The pedisequae that appear in the Digest were slaves, and we find that several of them served one mistress - "Titia servis quibusdam et ancillis nominatim directas libertates dedit, deinde ita scripsit: 'et pedisequas omnes, quarum nomina in rationibus meis scripta sunt, liberas esse volo.'⁶ In a passage in the Andria likewise we find several pedisequae accompanying their mistress. Their function is there clear. They were the personal attendants of the mistress when she went forth from the house.⁷ In Plautus, on the other hand, we find but one attendant accompanying the mistress,⁸ and that in one case an old woman, the girl's nurse.⁹

The duties of the pedisequa may be listed by Ovid in the

Marquardt (Privatleben, p. 147), however, thinks that the pedisequus was in attendance only when the master went on foot. The Digest's "lecticariis aut pedisequis legatis" admits of either interpretation.

¹Plaut. Aul. 501; Poen. 41; Nep. Att. 13.

²Papin. Dig. xxxi. 65.

³Scaev. Dig. xxxiv. 1. 17.

⁴Plaut. Poen. 41.

⁵Nep. Att. 13.

⁶Scaev. Dig. xl. 4. 59.

⁷Ter. And. 123.

⁸Plaut. As. 183.

⁹Idem, Aul. 807.

Ars Amatoria, though the name does not appear.¹ The services there mentioned are the carrying of the parasol for the girl, making way for the litter in a crowd, drawing out the stool for her to step up to a couch, taking off and putting on her sandals. The last thing mentioned, holding her mirror, suggests the ornatrix rather than the pedisequa.

Lecticarius.--Another important service rendered outside the house was that of the lecticarius, who was the litter bearer - "Item legato continentur mancipia, puta lecticarii, qui solam matrem familias portabant."² The lecticarii that appear in the Digest were slaves - "Eadem sunt lecticariis aut pedisequis legatis."³ Cicero classes them as vulgares.⁴ The Digest makes clear the fact that in legacies they went in sets rather than as individuals - "Itemque quadrigae aut lecticariorum stipulatio una est."⁵ The number constituting a set here was eight - "Si ita legatum sit: 'lecticarios octo aut pro his in homines singulos certam pecuniam, utrum legatarius volet.'"⁶ This number corresponds with that of the carriers whom Catullus reported purchased in Asia Minor.⁷ From other Latin authors we learn that sets of six also were used.⁸ There were legacies, however, in which individuals were consigned by will, as a citation from Marcianus makes clear.⁹ This was probably true when the number of slaves was so small that one served in several capacities or when the number was so large that there were slaves in training, who served as understudies for several slaves whose work differed. The lecticarius of this sort appears in the citation quoted as cook, weaver, or litter carrier. In another citation he appears as cook and litter bearer.¹⁰ This doubling of roles of slaves may be the explanation of the manuscript reading lecticarius in the Cena Trimalchionis, and a strong argument for the retention of the original reading.¹¹ If this is the key to the situation, the employment of the lecticarius in such fashion was a mark both of the

¹Ov. Ars Am. 11. 209 ff.

²Ulp. Dig. xxxi. 49.

³Papin. Dig. xxxi. 65.

⁴Cic. Pro Rosc. Am. xlvi. 134.

⁵Ulp. Dig. xlv. 1. 29.

⁶Pompon. Dig. xxx. 8. 2.

⁷Catull. x. 20.

⁸Mart. ii. 81; vi. 77. 4.

⁹Marcian. Dig. xxxi. 65. 2. See Chapter I, Note 1, p. 28.

¹⁰Paul. Dig. xxxi. 99. 4. See Chapter I, Note 2, p. 28.

¹¹Petr. 34. 3.

wealth of the establishment and of the economical and efficient administration elsewhere stressed.

One citation previously quoted mentions bearers who carried the mistress of the house only.¹ Lamer mentions this as proof of the fact that these carriers were in a position of responsibility and trust.² The fact that his litter bearers defended Caligula at the time of his murder is further fortification for this position.³ Marquardt⁴ and Girard,⁵ however, consider the mistress's having her own bearers an indication that often a house would have many lecticae with carriers for each. This opinion is reinforced by inscriptions referring to a slave supra lecticarios⁶ or praepositus lecticarium.⁷

The last citation that we have to consider mentions the matter of livery for carriers, in this case again the carriers of the wife - "Idem quaesit, an....vestis, quam ancillis vel lecticariis eiusdem uxoris suae comparaverat vel fecerat, praestanda esset."⁸ From other sources we learn what sort of livery was worn. Some wore a paenula and were trapped out like soldiers.⁹ Others were clad in red.¹⁰

The litter seems to have been used outside of the city as well as within it.¹¹

There existed across the Tiber the so-called castra lecticarium.¹² What it was is not clear. Lamer insists that it was the place where the lecticarii stayed who served officials such as the tabellarii.¹³ Marquardt thinks that there were lecticae for hire that may have been kept there.¹⁴ The military or imperial connection that one expects from the use of the word castra is not apparent in either case.

¹Dig. xxxii. 49. See Note 2, p. 63.

²PW s. v. Lectica, p. 1097.

³Suet. Cal. 58.

⁴Marquardt, Privatleben, p. 149.

⁵DS s. v. Lectica, p. 1004.

⁶CIL VI. 5198.

⁷CIL VI. 8875.

⁸Scaev. Dig. xxxiv. 2.13.

⁹Sen. De Ben. iii. 28. 5.

¹⁰Mart. ix. 22. 9.

¹¹Sen. Ep. 31. 10.

¹²L. Preller, Die Regionen der Stadt Rom (Jena, 1846), pp. 218-9.

¹³PW s. v. Lectica, pp. 1093-4.

¹⁴Privatleben, p. 737.

A collegium lecticariorum appears in inscriptions,¹ which Liebenam² and Waltzing³ think was a burial association.

Evidence does not appear that the word was used to denote a maker of lecticae.⁴

Tabellarius.--Another service rendered outside of the house was that of the tabellarius, who appears in one citation in the Digest. He was presumably a slave who was sent by his master with a letter. He was given a letter in reply. The writer disclaimed all responsibility for the letter after it was given to the tabellarius. The words of Paulus are: "Immo contra: nam si miseris ad me tabellarium tuum et ego rescribendi causa litteras tibi misero, simul atque tabellario tuo tradidero, tuae fient."⁵ This is clearly an instance of the tabellarius maintained in the private service of well-to-do citizens,⁶ or of those that had messages of importance to send.⁷ The use of the tabellarius on the return trip to carry the reply to the letter was usual.⁸ The fact that responsibility for the letter was disclaimed reminds us that the difficulty of finding reliable carriers was always prominent when the subject was mentioned.⁹

In addition to these carriers for private individuals, we find carriers attached to certain groups of people in certain businesses, most prominently the publicani, who seem to have had a particularly efficient service.¹⁰ These tabellarii were used by private individuals who wished to send letters in the direction in which they were going.¹¹ For those who did not have their own carriers or did not find those of others that they could use, there seems to have been a group of carriers serving for hire.¹²

¹CIL VI. 6218.

²W. Liebenam, Zur Geschichte und Organisation des Römische Vereinswesens (Leipzig, 1890), p. 130.

³J. P. Waltzing, Étude Historique sur les Corporations Professionnelles chez les Romains (Louvain, 1895), IV, p. 157.

⁴Blümner (Technologie, II, p. 327, n. 4) says that the word was always used for carriers. Humbert (DS s. v. Arcarii) and Girard (DS s. v. Lectica, p. 1004) consider it used for makers of lecticae as well. The lectarius and faber lectarius (CIL VI. 9503; 7882; 7988) were entirely different people, the makers of lectus.

⁵Paul. Dig. xli. 1. 65.

⁶Cic. Fam. viii. 8. 10.

⁷Cic. Ad Q. F. 11. 12. 3.

⁸Cic. Fam. xv. 17. 1.

⁹Cic. Att. v. 17. 1; Plin. Ep. 11. 12; viii. 3.

¹⁰Cic. Att. v. 16. 1.

¹¹Cic. Att. v. 15. 3.

¹²Cic. Att. viii. 14.

Quite apart from this service privately maintained by and for private individuals and those in business, there is indisputable evidence of a state service existing from very early times.¹ This service was maintained and augmented by various emperors.² A castra tabellariorum across the Tiber may have been the quarters of tabellarii in the service of the state.³ The use of the word castra, however, suggests military tabellarii, and it is known that not only were there slaves⁴ and freedmen⁵ in the service of the government, but freemen, soldiers, who carried military dispatches.⁶

The tabellarius may have travelled on foot upon occasion,⁷ he may have used a litter in the city,⁸ but our most certain evidence shows that he travelled by some sort of vehicle.⁹ The tabellarii in the service of the state had regular stations for the changing of horses.¹⁰ They wore the petasus,¹¹ and carried some sort of tessera¹² or diploma¹³ for identification.

A collegium of tabellarii existed, in this case probably a burial association.¹⁴

¹Strabo v. 4. 13; CIL I. 551 (1863); 638 (1893).

²Suet. Aug. 49; CIL X. 1741.

³H. Jordan, Topographie der Stadt Rom (Berlin, 1871), II, p. 574.

⁴CIL VI. 6342.

⁵CIL VI. 9915.

⁶Dio Cass. lxxviii. 14.

⁷Cic. Att. ix. 7. 1; Fam. xv. 17. 1.

⁸Lamer, PW s. v. Lectica. ⁹Petr. 79. 6.

¹⁰CIL I. 551 (1863); 638 (1893).

¹¹Cic. Fam. xv. 17. 1.

¹²See Note 5.

¹³Plin. Ep. x. 64 (14). (M. Schuster, Teubner, 1933).

¹⁴CIL III. 6077; VIII. 1878; XII. 4449.

CHAPTER IV

OCCUPATIONS CONCERNED WITH TRANSPORTATION

Another group of occupations that required the service of humbler men was that centered about transportation. Some of these people were in the service of the individual traveller. Others belonged to groups that served the travelling public. Certain ones were engaged in the transportation of things of one kind or another.

Agaso.--One group of persons concerned with transportation was that of the agasones. The agasones that appear in the Digest were slaves. The Digest implies that the agaso belonged to the familia urbana, but certainly not to that portion of it that rendered personal service to the master. The words of Alfenus are: "Servis et ancillis urbanis legatis agasonem mulionem legato non contineri respondi: eos enim solos in eo numero haberi, quos pater familias circum se ipse sui cultus causa haberet."¹ Another citation implies that he did not belong to the familia rustica - "Agasonem enim missum in villam a patre familias non pertinere ad fundi legatum Mucius ait, quia non idcirco illo erat missus, ut ibi esset."² In another citation a tale is told of an agaso that had his leg broken by the kick of a mule when he led a horse into an inn - "Agaso cum in tabernam equum deduceret, mulam equus olfecit, mula calcem reiecit et crus agasoni fregit: consulebatur, possetne cum domino mulae agi, quod ea pauperiem fecisset. Respondi posse."³ It is clear, then, that the agaso was a slave that cared for horses. As he is associated with a mulio in the first citation, we assume that his service somewhat corresponded to that of the mulio. We assume from the first two passages quoted above that he was the caretaker of horses of his master. Most literary references support this assumption.⁴ One literary reference admits of the interpretation that he was a groom con-

¹Alf. Dig. xxxii. 60. 1.

²Ulp. Dig. xxviii. 5. 35. 3.

³Alf. Dig. ix. 1. 5.

⁴Paul. Fest. 23 L; Porph. on Hor. Sat. ii. 8. 72; Serv. Aen. iii. 470.

nected with a stable, and has been so interpreted. Curtius in recounting the training of certain young men says: "acceptos ab agasonibus equos, cum rex ascensurus esset, admovebant."¹ So interpreted, this reference lends support to the theory that the agaso mentioned in the passage last quoted from the Digest was a hostler connected with the inn. A gloss states clearly that agasones had the care of horses.² Our conclusion is that the agaso had the care of horses, that he might be in the service of a master either in the villa urbana or in a villa rustica, or that he might be connected with a stable for the service of travellers.

Strator.--Stratores also served travellers. The stratores that appear in the Digest were freemen - "Quibusdam aliquam vacationem munerum graviorum condicio tribuit, ut sunt....lapidarii....stratores."³ Freemen appear in inscriptions⁴ also, though both slaves⁵ and freedmen⁶ are found there. The strator served emperors⁷ and other officials of the state.⁸ Proconsuls, however, were forbidden to have their own stratores, but soldiers performed the duties of stratores for them - "Nemo proconsulum stratores suos habere potest, sed vice eorum milites ministerio in provinciis funguntur."⁹ The word itself leads one to believe that the duties of the strator included the saddling of the horse and probably that would be a term sufficiently elastic to include everything necessary to prepare the horse for riding. The actual accounts of the work of the strator, however, deal with assisting the emperor or general to mount.¹⁰

Military stratores appear in large numbers.¹¹ In later times the functions of these military stratores were enlarged to include trying out and approving horses purchased for military purposes.¹² Later a strator appears in the Codex of Theodosian who seems to have had the task of guarding prisoners.¹³ He also was attached to the army, if he was the same person referred to by Symmachus, who wrote at about the same period.¹⁴

Iunctor.--The appearance of the iunctor in the Digest,

¹Curt. viii. 6. 4.

²CGL V. 583. 7.

³Tarr. Pat. Dig. L. 6. 7 (6).

⁴CIL X. 7580.

⁵CIL VI. 6352.

⁶CIL VI. 4888.

⁷Amm. xxx. 5. 19.

⁸Eph. Ep. IV. pp. 406-7.

⁹Ulp. Dig. i. 16. 4. 1.

¹⁰Spart. Car. vii. 2.

¹¹CIL II. 4114. See also note 8.

¹²Amm. xxix. 3. 5.

¹³Cod. Theod. ix. 3. 1.

¹⁴Symm. Ep. x. 38 (Seeck).

apparently the sole appearance of the word in Latin literature, gives no information as to the work of the iunctor. The question is raised as to what slaves a Roman dwelling in Sicily may bring or send back to Rome duty free. The decision of the jurist was that those slaves that the master had for his own use might be brought in. He further defined such slaves as the slaves that he had for the care and protection of his own body, illustrating his definition by a list headed by iunctores and containing valets, cooks, waiters at the table, and others (alii). The words of A-fenus are as follows: "Et sibi videri eos demum usus sui causa patrem familias habere, qui ad eius corpus tuendum atque ipsius cultum praepositi destinatique essent, quo in genere iunctores, cubicularii, coci, ministratores."¹ This definition of intimate personal service has driven commentators away from the interpretation of iunctores as yokers of animals, which is attested by glosses² and by two inscriptions,³ and which fits perfectly into the situation of the passage cited but for the definition immediately preceding. That the definition represents a narrower use of the term than even the usual juristic usage is showed by a passage from Ulpian - "item iumentorum, quae dominici usus causa parata sunt."⁴ Quintilian mentions further as tax free such things as may be classed as instrumenta itineris.⁵ That class might very well include such iunctores. We may have here, then, parts of two categories brought together, an assimilation that is possibly not the work of the jurist that originally defined suo usu.

The interpretation dresser of wounds given by certain commentators⁶ has no basis other than the fact that it is in harmony with the definition and that the verb iungo is used in con-

¹ Alf. Var. Dig. L. 16. 203.

² CGL III. 367. 31; 74. 48; 173. 58; 241. 5.

³ CIL VI. 31338a; 31369. See Waltzing, Corporations, IV, p. 26, n. 63 and III, p. 313; also K. Sittl, Archiv für Lateinische Lexikographie, I (1884), p. 318. Georges (K. E. Georges, Ausführliches Lateinisch-Deutsches Handwörterbuch (Hanover und Leipzig, 1918)) agrees with this interpretation.

⁴ Ulp. Dig. xxxiii. 9. 3.

⁵ Quint. Declam. ccclix. See also R. L. V. Cagnat, Étude Historique sur les Impôts Indirects (Paris, 1882), p. 106.

⁶ E. g. H. Meyer-Lübke, Romanisches Etymologisches Wörterbuch (Heidelberg, 1911), s. v. iunctor.

nection with the dressing of wounds. That connection, however, is not such as to leave one feeling that the case is clear. In one case a salve serves as an astringent that draws the edges of a wound together;¹ in another the taking of the stitches draws the edges together.² When a personal subject appears, we are told that doctors draw the edges together by sewing.³ In the one literary reference that is not a technical treatise on medicine the text is uncertain. The emendation to iungere seems fairly certain, however, and gives the reading "vulnera doctum iungere."⁴ In short, this review of the evidence seems to indicate that iungo is not a highly technical word in medicine, and that the medicus, not a special iunctor, would perform the functions indicated.

Victorius emended the passage in the Digest by substituting unctor, a word that occurs frequently and fits into the definition of personal service. The appearance of unctor and unctura in glosses, defining ἰευυρίης and ἰευῦς respectively,⁵ shows that there was confusion in the words iunctor and unctor and lends some support to the idea.

The conclusion to which the evidence leads one is that it is possible to retain the reading of the text and the normal interpretation of the word, although there is no very certain evidence as to who this iunctor was nor what his functions were.

Cisiarius.--In addition to this group just discussed, a group is found who served the public for hire. One of these is the cisiarius. He appears in inscriptions as a slave,⁶ or as a freedman⁷ as a rule. He was the driver of the light two-wheeled cisium, the vehicle that was used for rapid transportation by the Romans.⁸ It was sometimes drawn by three mules.⁹ In the citation in the Digest a case is given in which the driver, in his haste to pass others, overturned his vehicle and shook up or killed a slave. The jurist's decision was that he was liable for action ex locato, which makes it clear that he had rented out the services

¹Scrib. Comp. 206.

²Cels. v. 26. 23.

³Cels. vii. 17. 1.

⁴Stat. Theb. x. 733.

⁵CGL II. 322. 3.

⁶CIL X. 6342.

⁷CIL I. 1129 (1863); 1446 (1893); xiv. 2874.

⁸Verg. App. Cat. x. 3; Cic. Phil. ii. 31.

⁹Auson. Ep. iv. 6 (R. Pieper, Ausonii Opuscula [Leipzig, 1886]). That the animals used were mules is assumed on the basis of Capitol. Max. xxx. 6. A vehicle that is probably a cisium appears in reliefs. In one case it is drawn by two horses (See DS s.v. cisium), in others by one horse (See A. Mau, PW s.v. cisium).

of his vehicle and of himself as driver. The jurist adds that he should have exercised reasonable self-restraint in driving. Ulpian's words are: "Item quaeritur, si cisiarius, id est carucarius, dum ceteros transire contendit, cisium evertit et servum quasavit vel occidit. Puto ex locato esse in eum actionem: temperare enim debuit."¹

Barring this citation, the word appears in inscriptions only. There groups of drivers appear, indicating either that the drivers were banded together into a collegium as is suggested by the words Cisiariei Praenestinei which appear in an inscription,² or that there were established locations for them corresponding to cab-stands as is suggested by "...ab ianu ad gisiarios porta(e) Stellatinae...."³ One inscription has been used in an effort to prove that the cisiarius was a maker of cisia.⁴ The inscription reads as follows:

L. Tampius L f Peccio
cisiar vivos fecit sibi et
Maximae Oppiae C f
uxori et Q. Oppio C f
vivit⁵

The cisiarius in this case is a freeman. The entire inscription impresses one as belonging to a greater personage than the ordinary driver of a cisium. That he was the owner of cisia with slave drivers doing the work is at least as fair a guess as that he was the maker of cisia. The only thing that we can be sure of is that the cisiarius drove the cisium.

Carrucarius.--The word carucarius (sic) appears once in the Digest, there thrown in parenthetically in explanation of the word cisiarius.⁶ One suspects that this is a marginal note that got into the text, written perhaps at a time when the carruca was better known than the cisium. The carrucarius was probably really the driver of the carruca. The carruca, a four-wheeled carriage, was drawn by mules - "Quaesitum est, si mula talis sit, ut transiungi non possit, an sana sit. Et ait Pomponius sanam esse: plerasque denique carrucarias tales esse, ut non possint transiungi."⁷ The drivers were called muliones carrucarum by Capitolinus.⁸

¹Ulp. Dig. xix. 2. 13.

²CIL XIV. 2874.

³CIL X. 4660.

⁴E. g. by Orelli, 4163.

⁵CIL XI. 6215.

⁶Ulp. Dig. xix. 2. 13. See Note 1.

⁷Idem, Dig. xxi. 1. 38. 8.

⁸Capitol. Max. xxx. 6.

Mulio.--Of the groups engaged in transportation the one that appears most frequently in the Digest is that of the muliones, the drivers of mules. The Digest is rather illuminating with regard to the troubles of muleteers. If his mules ran away and injured another man's slave, the muleteer was responsible whether the accident was due to lack of skill in handling mules or to lack of strength. Apropos of the mention of lack of strength, Gaius adds that no one should undertake a task in which he knew or should know that his lack of strength would jeopardize another. Gaius's words are as follows:

Mulionemque quoque, si per imperitiam impetum mularum retinere non potuerit, si eae alienum hominem obtriverint, vulgo dicitur culpa nomine teneri. Idem dicitur et si propter infirmitatem sustinere mularum impetum non potuerit: nec videtur iniquum, si infirmitas culpa adnumeretur, cum affectare quisque non debeat, in quo vel intellegit vel intellegere debet infirmitatem suam alii periculosam futuram.¹

If a man had hired out a slave to drive a mule, the slave fastened the mule to his thumb by a halter, and the mule broke away in such fashion as to tear out the slave's thumb and go head over heels himself, the master of the slave was liable for the injury to the mule if he had let out an unskilled slave as skilled. If, however, the slave was not at fault, both the master of the slave and the owner of the mule could look for damages to the person that had caused the trouble. Ulpian reports the incident thus:

Si quis servum conductum ad mulum regendum commendaverit et mulum ille ad pollicem suum eum alligaverit de loro et mulus eruperit sic, ut et pollicem avelleret servo et se praecipitaret, Mela scribit, si pro perito imperitus locatus sit, ex conducto agendum cum domino ob mulum ruptum vel debilitatum, sed si ictu aut terrore mulus turbatus sit, tum dominum eius, id est muli, et servi cum eo qui turbavit habiturum legis Aquiliae actionem.²

An incident is told of two loaded wagons (plaustra) that were being drawn up the Capitoline Hill. The muleteers of the first, to help the struggling mules, got behind their wagon and pushed. It began to slip back and they jumped aside with the result that it hit the second wagon and the latter ran over a slave boy. The jurist's decision as to responsibility takes into consideration all possible reasons for the first wagon's getting out of control. Alfenus says:

¹Gaius, Dig. ix. 2. 8. 1.

²Ulp. Dig. ix. 2. 27. 34.

In clivo Capitolino duo plostra onusta mulae ducebant: prioris plostri muliones conversum plostrum sublevabant, quo facile mulae ducerent: inter superius plostrum cessim ire coepit et cum muliones, qui inter duo plostra fuerunt, e medio exissent, posterius plostrum a priore percussum retro redierat et puerum cuiusdam obtiverat.¹

In another citation mention is made of a slave muleteer who had been hired by an owner of mules. He was so careless of the mules that one died. Labeo's decision as to responsibility was that if the slave had hired himself to the owner of the mules the loss must be paid from his peculium, but if the master of the slave had picked out for hire a slave that would cause such a loss he was responsible. Labeo's statement is as follows:

Servum meum mulionem conduxisti: neglegentia eius mulus tuus perit. Si ipse locasset, ex peculio dumtaxat et in rem verum damnum tibi praestaturum, dico: sin autem ipse eum locassem, non ultra me tibi praestaturum, quam dolum malum et culpam meam abesse: quod si sine definitione personae mulionem a me conduxisti et ego eum tibi dedissem, cuius neglegentia iumentum perierit, illam quoque culpam me tibi praestaturum aio, quod eum elegissem, qui eius modi damno te adficeret.²

Labeo tells us that the mulio who had rented out a carriage to carry luggage was responsible for the toll when a bridge was crossed if he knew that such a thing was likely to happen - "Vehiculum conduxisti, ut onus tuum portaret et secum iter faceret: id cum pontem transiret, redemptor eius pontis portorium ab eo exigebat..... Puto, si mulio non ignoravit ea se transiturum, cum vehiculum locaret, mulionem praestare debere."³

These incidents and the well-known story of the muleteer Sabinus and his struggle with mud,⁴ and Suetonius' account of a muleteer's stopping to shoe a mule,⁵ are all that we know about the actual work of the muleteer.

The material quoted from the Digest makes it clear that muleteers of three classes were found. There was the muleteer that was actually in the service of his own master, driving and attending to the master's mules whatever the particular job might be.⁶ Such muleteers might be reckoned in the familia urbana or in the familia rustica - "Muliones de urbano ministerio sunt, nisi propter opus rurestre testator eos destinatos habebat."⁷ They

¹Alf. Dig. ix. 2. 52. 2.

²Labeo, Dig. xix. 2. 60. 7.

³Ibid. 8.

⁴Verg. App. Cat. x.

⁵Suet. Vesp. 23.

⁶Ulp. Dig. xxxiii. 7. 12. 9. See Chapter III, Note 6, p.44.

⁷Paul. Dig. xxxii. 99. 2.

were never personal attendants of the master.¹ There were also muleteers that were let out by their masters to drive other men's mules. In addition to these there was a group, probably no more highly skilled but more responsible, who, in addition to doing the actual driving, contracted for the service of themselves and animals in transporting luggage or men and luggage. There is no evidence that these muleteers owned their own mules. That they drove and did business for others, is indicated by the classification of muleteers as institores - "Sed et muliones quis proprie institores appellet."²

Knowledge as to the various capacities in which muleteers served is derived partly from the Digest, partly from literary sources. Muleteers drove the carriages of royalty,³ transported the city dweller in his travels,⁴ even going to the most distant places in charge of the same animals,⁵ transported supplies of provincial governors,⁶ served with armies,⁷ served in the ordinary work of the farm,⁸ served in bakeries.⁹ The carruca dormitoria, the sleeping car of the day, in one case at least kept for the use of the wife, was drawn by mules - "Quaesitum est, an carrucha dormitoria cum mulis, cum semper uxor usa est, ei debeatur."¹⁰ From this we may infer the service of a muleteer. With the outstanding exception of C. Ventidius Bassus (and Sabinus, if the two are not one)¹¹ we have no certain record of a muleteer who was not a slave.¹² There were, however, associations of muleteers.¹³

The Edict of Diocletian fixed the wages of a muleteer hired to another at twenty five denarii per day plus his living.¹⁴ From the same document we find that the boots of the muleteer, as those of the farmer, cost twenty per cent more than the boots of

¹Alf. Dig. xxxii. 60. 1. See Note 1, p. 67.

²Ulp. Dig. xiv. 3. 5. 5.

³Varro L. L. v. 159; Suet. Ner. 30.

⁴Paul. Dig. xxxii. 99. 2. See Note 7, p. 73. Idem, Sent. iii. 6. 72.

⁵Sen. Apoc. vi. 1. (See Friedländer's note.)

⁶Gell. xv. 4. 3.

⁷Caes. B. G. vii. 45; Frontin. De Mil. ii. 4. 5.

⁸See Note 7, p. 73.

⁹Plin. N. H. vii. 43, 44. 135.

¹⁰Scaev. Dig. xxxiv. 2. 13.

¹¹See Note 4, p. 73.

¹²See Note 5, p. 73.

¹³CIL IV. 97; 113.

¹⁴Edict. Diocl. vii. 19.

the soldier,¹ and that he had a lash with a wooden handle valued at sixteen denarii.²

Plaustrarius.--Another worker engaged in transportation who appears in the Digest is the plaustrarius. He was a driver of a wagon. If a stone fell from his wagon and did some damage, provided this happened because he had loaded his wagon badly and the load slipped on that account, he was liable. Ulpian says: "Si ex plostro lapis ceciderit et quid ruperit vel fregerit, Aquiliae actione plostrarium teneri placet, si male composuit lapides et ideo lapsi sunt."³ No evidence appears on which an opinion can be based as to whether he was a slave, a freedman, or a freeman.

The word plostrarius or plaustrarius appears rarely. It is found in one inscription so mutilated that it is impossible to gain any information from it about the person involved.⁴ One intact inscription remains in which lignari plostrari have advertised their support for a candidate for the aedileship.⁵ This expression has always been interpreted to mean makers of wagons, and has served as support for the interpretation of the word plaustrarius as wagon-maker.⁶ Other wall inscriptions appear, however, in which lignarii make known political preferences.⁷ The fact that lignarii do thus appear as a politically conscious group, and the fact that other inscriptions occur in which two or more groups that we know were separate groups with separate functions appear in juxtaposition with no connecting conjunction,⁸ make possible the interpretation, that here we have two groups of people involved, dealers in wood,⁹ and the drivers of the wagons in which the wood was hauled. It is possible that the word plaustrarius was used as the equivalent of wagon maker, but there is no evidence that makes that interpretation inevitable in any ex-

¹Ibid. ix. 5a.

²Ibid. x. 18.

³Ulp. Dig. ix. 2. 27. 33.

⁴CIL X. 3989.

⁵CIL IV. 485.

⁶Blümner, Technologie II, 325; La Faye, DS s. v. Plaustrarius; Liebenam, Vereinswesens, pp. 35-6; Marquardt, Privatleben, p. 728; Waltzing, Corporations, IV. p. 96.

⁷CIL IV. 951; 960.

⁸CIL VI. 29702 (Corpus Piscatorum) urinatorum; CIL V. 2071 Collegiorum Fab Cent Dendr: Ibid. 5128 Coll. Fabr Cent Dendr; Ibid. 5446 Centuria Centonar Dolabrar Sclar(1)or.

⁹CIL XIV. 278. See also Waltzing, Corp. II, pp. 55, 125.

tant case.¹ The meaning driver of a wagon is clear from the passage quoted from the Digest.

¹The reading claustrariorum in Lampr. Alex. Sev. 24. 5 is accepted.

CHAPTER V

OCCUPATIONS CONCERNED WITH AGRICULTURE

Another group of occupations in which service was rendered by the more humble man is those concerned with agriculture. Many of these had to do with the soil and crops of grain or other produce of the soil itself. Others were concerned with the raising of stock.

Politor.--One of the persons that appears in the Digest in connection with land is the politor. There he is clearly concerned with raising crops on the estate - "Si in coeunda societate, inquit, artem operamve pollicitus est alter, veluti cum pecus in commune pascendum aut agrum politori damus in commune quaerendis fructibus, nimirum ibi etiam culpa praestanda est: pretium enim operae artis est velamentum."¹ Today we should probably call him a share cropper, though the amount returned to the landlord, one ninth to one fifth, was less than that given by the modern share cropper.² The passage quoted from the Digest admits of the interpretation that he also took sheep out to graze. This sort of laborer, called colonus partiarius,³ appears in the Codex, and we are there told that he received a share of the increase of the flocks.⁴ He prospered or suffered loss in the same proportion as the owner of the land.⁵ This same politor seems to have been the person who hired his services to neighbors by the day.⁶ As part of such service he may have been the free laborer trusted with the guarding of the oil press.⁷

Other politores that do not appear in the Digest are known. Blümner⁸ is of the opinion that there was one that put the finish on walls, and that he is referred to in an inscrip-

¹Ulp. Dig. xvii. 2. 52. 2. ²Cato R. R. 136.

³Ibid. 136-7. ⁴Cod. Just. ii. 3. 9 (8).

⁵Gaius, Dig. xix. 2. 25. 6.alioquin partiarius colonus quasi societatis iure et damnum et lucrum cum domino fundi partitur.

⁶Cato R. R. v. 4. ⁷Ibid. xiii.

⁸Blümner, Technologie, III, p. 181.

tion¹ in a list of slaves with an atriensis and a topiarius close on the list. The inscription as a whole, however, suggests a person doing general service outside the house, a slave politor of the sort suggested in the Digest and by Cato.² Another slave politor possibly of either sort appears in an inscription³ published later. The use of the verb polio in describing the process of finishing newly woven cloth is not to be questioned,⁴ but the Digest makes it clear that the ordinary fuller, not a politor, did the work.⁵ The person that dressed precious stones certainly was called a politor.⁶ The common element in all these various occupations in which the politor appears seems to be that of putting a finish on something.⁷ The single exception is the keeper of flocks, who probably continued to bear the name dresser of the soil when the raising of stock had supplanted the original function.

Operarius.--Another humble workman, at times certainly connected with agriculture, was the operarius. He seems to have been a slave of general rather than specific function, who helped with any sort of work. He was of sufficient importance that any action of his was binding on the master if the master had said that he was responsible. As to this Ulpian says: "Plane si adfirmaverit mihi recte me credere operariis suis, non institoria sed ex locato tenebitur."⁸ In one citation he appears as a slave cultivating the fields from which the produce came on which the master lived - "Itemque de servis eadem ratione quaeri, qui eorum usus sui causa parati essent? Utrum...operarii quoque rustici, qui agrorum colendorum causa haberentur, ex quibus agris pater familias fructus caperet, quibus se toleraret."⁹ It was the ruling

¹CIL I. p. 327. C 2. 17 (1863); p. 247. C 42. 17 (1893); X. 6638 C.

²See Note 6, p. 77. ³CIL VI. 37818.

⁴Gaius, Dig. xix. 5. 22; Ulp. Dig. xlvii. 2. 12; 48. 4.

⁵Ulp. Dig. xlvii. 2. 12.

⁶Firm. Math. iv. 14. 20 (Kroll-Skutsch).

⁷Fronto, De Diff. Voc. (A. Mai, Frankfurt, 1816, p. 476). A. Walde und J. B. Hofmann, Lateinisches Etymologisches Wörterbuch, 2nd ed. Heidelberg, 1910. Keil (H. Keil, Commentarius in Catonis De Agricultura, Leipzig, 1894) II. 1. pp. 139 f. gives satisfactory evidence that the word polio was used with reference to land. My conclusion as to the work of the politor differs from Keil's both because of the evidence of the Digest and from the fact that Cato (R.R. v. 4) places the politor in a category of workmen of general and not narrowly specialized function.

⁸Ulp. Dig. xiv. 3.5. 10.

⁹Alf. Var. Dig. L. 16. 203.

of the jurist that that did not bring him into the class of slaves maintained for the personal service of the master. In a second citation we are told that if such a slave did the actual work of grinding the grain, the millstone was included in the instrumentum of the fundus - "Idem (Scaevola) consultus de meta molendaria respondit, si rusticis eius fundi operariis moleretur, eam quoque deberi."¹ Cato allowed five operarii for the cultivation of an olive orchard of two hundred forty jugera,² ten for one hundred jugera of vines.³ The wages of an operarius according to the Edict of Diocletian were twenty five denarii per day with his living.⁴ We have no way of knowing whether this operarius was a free laborer or a slave hired out by his master. The wage is the lowest listed, the same as that of a camel driver. In literature the word is used in a sense equivalent to our yokel.⁵ It may have a like significance in an inscription of the year 212 A.D.⁶

Fossor.--Another slave who served on a rural estate was the fossor - "Pastores quoque et fossores ad legatarium pertinerent."⁷ The word itself indicates that he dug trenches (fossae). The sort of trench dug is not indicated at this point in the Digest, but the context indicates that the reference is to a slave performing the ordinary work of the estate. From Columella we learn that the slave that dug furrows (sulci) between rows of vines and trees, not plowing them, but digging by his own labor, was called a fossor.⁸ This is probably the most usual work that a fossor would do. The Digest, however, mentions two other types of work that may have been done by the fossor. One is the digging of ditches for drainage, to carry off surplus water from rains. Paulus mentions this, saying: "Apud Labeonem proponitur fossa vetus esse agrorum siccandorum causa nec memoriam extare, quando facta est. Hanc inferior vicinus non purgabat."⁹ Alfenus says: "Sed et si fossas fecisset, ex quibus aqua pluvia posset nocere, arbitrum, si appareat futurum, ut aqua pluvia noceret, cogere oportere fossas eum explere et, nisi faceret, condemnare."¹⁰ These drainage ditches were of so great importance in agricultural

¹Paul. Dig. xxxiii. 7. 18. 5.

²Cato R. R. x. 1.

³Ibid. xi. 1.

⁴Edict. Diocl. vii. 1a.

⁵Cic. Tusc. v.36. 104; Fam. viii. 1.2.

⁶Or. 2608.

⁷Paul. Dig. xxxiii. 7. 18. 8.

⁸Col. iii. 13. 3.

⁹Paul. Dig. xxxix. 3. 2. 1.

¹⁰Alf. Dig. xxxix. 3. 24.2.

life that the Digest makes rather close specifications about them. They were to be made for drainage only, not for collecting water. They could be made only if the fields could not otherwise be sowed. They had to be straight trenches with no curve. Ulpian's specifications are as follows:

Sed et fossas agrorum siccandorum causa factas Mucius ait fundi colendi causa fieri, non tamen oportere corrivandae aquae causa fieri....sed et si quis arare et serere possit etiam sine sulcis aquariis, teneri eum, si quid ex his, licet agri colendi causa videatur fecisse: quod si aliter serere non possit, nisi sulcos aquarios fecerit, non teneri. Ofilius autem ait sulcos agri colendi causa directos ita, ut in unam pergant partem, ius esse facere..... Sulcos tamen aquarios, qui ^{ἐλκες} appellantur, si quis faciat, aquae pluviae actione eum teneri ait.¹

The other type of work that may have been done by the fossor is the digging of irrigation ditches. Ulpian refers to these when he says: "Si fossa manu facta sit, per quam fluit publicum flumen, nihilo minus publica fit,"² and: "Illud quaeritur, utrum ea tantum aqua his interdictis contineatur, quae ad agrum irrigandum pertinet."³ No instance appears in the Digest of the elaborate underground trenches for drainage that Michon discusses in his article on fossores.⁴

Either there were fossores who were not slaves, or contracta were made for digging ditches for which the actual labor was done by slaves working under the contractor. At least ditches were dug by contract. With regard to this Ulpian says: "Idem puto et si quis faciendum aliquid stipulatus sit, ut puta....fossam fodiri,"⁵ and: "Inter artifices longa differentia est et ingeni et naturae et doctrinae et institutionis. Ideo si....quis promiserit....fossamve faciendam (a se)....fideiussor ipse.... fossam fodiens....non liberabit reum."⁶

A fossor who served in the army⁷ does not appear in the Digest under the name fossor, but may be indicated by the expression "qui fossam faciunt."⁸ Whether this indicates that the digging of the ordinary fossa had become specialized work or whether fossa here is equivalent to cuniculum can not be determined from the context. Possibly the latter is the better interpretation.

¹Ulp. Dig. xxxix. 3. 1. 4, 5, 9.

³Idem, Dig. xliii. 20. 1. 11.

⁵Ulp. Dig. xlv. 1. 72.

⁷Stat. Theb. ii. 418-9.

²Idem, Dig. xliii. 12. 1. 8.

⁴Michon, DS s.v. Fossor.

⁶Idem, Dig. xlvi. 3. 31.

⁸Tarr. Pat. Dig. L. 6. 7.

Putator.--Another person who served as an agricultural worker was the putator. Putatores appear in two capacities, as pruners of vines and as trimmers of trees. Large estates seem to have had several pruners of vines, all slaves counted as part of the instrumentum of the estate - "De putatoribus quoque ita respondit, si eius fundi causa haberentur, inesse."¹ The pruning of the vines is mentioned a second time, though the person doing the work is not mentioned - "Idcirco placuit, si quis....vineam putet."² Pruning hooks also are mentioned as part of the instrumentum of the estate.³ This function of the putator is mentioned most frequently in Latin literature.⁴

The function of the putator most common in the Digest, however, is that of trimming trees. The situation that the jurists are interested in is that of the man who, when he cuts the limb from a tree either on public or private ground, fails to shout a warning, and, as a result, kills a person passing by. The decision of the jurist was that the putator was not guilty under the Lex Cornelia de sicariis et veneficis - "Quare si....putator, ex arbore cum ramum deiceret, non praeclamaverit et praetereuntem occiderit, ad huius legis coercionem non pertinet."⁵ The same jurist, Paulus, does adjudge him guilty under the Lex Aquilia. He says:

Si putator ex arbore ramum cum deiceret vel machinarius hominem praetereuntem occidit, ita tenetur, si is in publicum deciderit nec ille proclamavit, ut casus eius evitari possit. Sed Mucius etiam dixit, si in privato idem accidisset, posse de culpa agi: culpam autem esse, quod cum a diligente provideri poterit, non esset provisum aut tum denuntiandum esset, cum periculum evitari non possit.⁶

Paulus elsewhere tells us the penalty, relegation to the mines.⁷ This putator who trimmed trees appears in Latin literature also.⁸

Saltuarius.--The saltuarius also served on estates.⁹ As

¹Paul. Dig. xxxiii. 7. 18. 7. ²Ulp. Dig. xxxix. 1. 1. 12.

³Idem, Dig. xxxiii. 7. 8.

⁴Ov. Met. xiv. 649; Col. iv. 24. 11; x. 228; Mart. iii. 58. 9.

⁵Paul. Dig. xlviii. 8. 7.

⁶Idem, Dig. ix. 2. 31.

⁷Idem, Sent. v. 23. 12.

⁸Varro L. L. vi. 63; Plin. N. H. xxvii. 69.

⁹The saltuarius has been discussed fully and impeccably by Rostovzeff (M. Rostovzeff, "Die Domänenpolizei in dem römischen Kaiserreiche," Phil. 64, 1905, pp. 297-307). The discussion has been retained here for the point on squatter sovereignty which is deemed important.

he appears in the Digest, the saltuarius was always a slave.¹ One of his functions was the protection of the estate from robbers. Both Alfenus and Pomponius offer evidence on this. The former says: "Saltuarium autem tuendi et custodiendi fundi magis quam colendi paratum esse."² The statement of the latter is: "... sicuti saltuarius: par enim ratio est: nam desiderant tam villae quam agri custodiam, illic, ne quid vicini aut agri aut fructuum occupent."³ It was also his duty to police the boundaries of the estate against trespass - "Saltuarium autem Labeo quidem putat eum demum contineri, qui fructuum servandorum gratia paratus sit, eum non, qui finium custodiendorum causa: sed Neratius etiam hunc, et hoc iure utimur, ut omnes saltuarii contineantur."⁴ Lecrivain thinks that in these capacities the saltuarius was subject to the villicus.⁵ Orth connects the saltuarius closely with hunting in the saltus and calls him Revierförster, the ranger of the game preserve.⁶ In spite of the use of the saltus for hunting, evidence of any connection of the saltuarius with hunting is lacking. Later the chief function of the saltuarius became the maintenance of the correct boundaries of the estate.⁷ The necessity for maintaining boundaries suggests actual appropriation of land and of such squatter sovereignty in the saltus the Digest offers evidence - "...quamvis saltus proposito possidendi fuerit alius ingressus, tamdiu priorem possidere dictum est, quamdiu possessionem ab alio occupatam ignoraret."⁸ One can see readily the desirability of a saltuarius to patrol borders and keep an estate intact. The owner of an estate could maintain such surveillance even against the will of a fructuary because it was very much to his interest that his borders be protected - "Dominus proprietatis etiam invito usufructuario vel usuario fundum vel aedes per saltuarium vel insularium custodire potest: interest

¹Dig. xxxii. 60. 3; xxxiii. 7. 8. 1; 12. 4; 15. 2; 17. 2.

²Alf. Dig. xxxii. 60. 3.

³Pompon. Dig. xxxiii. 7. 15. 2.

⁴Ulp. Dig. xxxiii. 7. 12. 4.

⁵Lecrivain, DS s. v. Latifundia, p. 966.

⁶Orth, PW s. v. Jagd, p. 558.

⁷W. M. Ramsay, The Cities and Bishoprics of Phrygia (Oxford, 1895), pp. 281 and 615, n. 527, cites inscriptional evidence.

⁸Papin. Dig. xli. 2. 46.

enim eius fines praedii tueri."¹ This last function became very important and especially so on large imperial estates, where the saltuarius was subject directly to the imperial procurator.²

Bubulcus.--Another slave who worked on the rural estate was the bubulcus. The Digest explicitly states that a bubulcus might have either one of two functions. He either guided the oxen at ploughing or he took the plough oxen to pasture - "De bubulco quoque ita respondit, sive de eo, qui bubus ibi araret, sive de eo, qui boves eius fundi aratores pasceret, quaereretur, deberi."³

The latter work is recognized by Cato.⁴ Glosses in which the bubulcus is called pastor bovum also refer to this function.⁵

Columella especially stresses the former task.⁶ He mentions especially the work of ploughing between grapevines,⁷ services in caring for his oxen, his use of the pick axe as well as the plough,⁸ his assistance in fertilizing fields.⁹ In this last task he is performing the task that Ovid mentions especially, the driving of wagons.¹⁰ Cato always suggests that there be one bubulcus for each pair of oxen.¹¹ Columella advised that bubulci be housed near the animals that they cared for.¹² Apparently bubulci were slaves of uncertain temper,¹³ who had to be handled discreetly that the stock might not suffer.¹⁴ They were under the direct supervision of the vilicus.¹⁵ Varro differentiates the armentarius from the bubulcus by the connection that the latter had with agriculture.¹⁶

Opilio.--Another slave that worked on estates was the opilio. The Digest makes it clear that he had the care of sheep. We are told that when an estate was given as a legacy those sheep that were kept to fertilize the place were included in the legacy, and the opilio, if he cared for sheep of that sort. The words of Alfenus are: "Praediis legatis et quae eorum praediorum colendo-

¹Pompon. Dig. vii. 8. 16. 1.

²Ramsay, op. cit., p. 281. See also O. Hirschfeld, Die Kaiserlichen Verwaltungsbeamten (Berlin, 1905), p. 133, n. 3.

³Paul. Dig. xxxiii. 7. 18. 6. ⁴Cato R. R. v. 6.

⁵CGL II. 570. 33.

⁶Col. ii. 2. 25; 28; vi. 2. 8.

⁷Col. v. 5. 13.

⁸Col. ii. 2. 25.

⁹Col. ii. 5. 2.

¹⁰Ov. Trist. iii. 12 (13). 30.

¹¹Cato R. R. x; xi.

¹²Col. i. 6. 8.

¹³Mart. x. 7. 5; Petr. 39. 6. ¹⁴Cato R. R. v. 6.

¹⁵Ibid.

¹⁶Varro R. R. ii. Pr. 4.

rum causa empta parataque essent....item oves, quae stercorandi fundi causa pararentur: item opillionem, si eius generis oves curaret."¹ Cato tells us that one opilio was required for the one hundred sheep necessary for fertilizer for two hundred forty jugera of olive orchard.² A second citation from the Digest dealing with the same general situation says that if live stock was excepted from the legacy, the pastores, oviliones, and ovilia also were omitted - "Item cum instrumentum omne legatum esset excepto pecore, pastores oviliones ovilia quoque legato contineri Ofilius non recte putat."³ This last citation implies a distinction between opiliones and pastores of sheep, but what it is is not apparent. The references to the opilio that give any hint as to the sphere of his operations mention him in close connection with the cultivated estate.⁴ Possibly he was responsible for flocks about the villa, but did not take sheep from one pasture to another, nor care for them in distant pastures.

Pastor.--Pastores were another group of slaves serving on estates. The word pastor seems to have been the general term used for a slave who had charge of animals. Pastores appear in citations that offer no information other than that they were slaves included in or excepted from legacies.⁵ One citation definitely connects them with swine. After wolves had fallen upon swine in spite of the efforts of the pastor, they were rescued by the tenant farmer of a neighbor and his strong dogs. Ulpian's account of the incident is as follows:

Pomponius tractat: cum pastori meo lupi porcos eriperent, hos vicinia villae colonus cum robustis canibus et fortibus, quos pecoris sui gratia pascebat, consecutus lupis eripuit aut canes extorserunt: et cum pastor meus peteret porcos, quaerebatur, utrum eius facti sint porci qui eripuit, an nostri maneant..... Et sane melius est dicere et quod a lupo eripitur, nostrum manere.⁶

Another citation mentions a pastor that had charge of geese.⁷ In another reference is made to shepherds that watched over sheep in saltus and pasture lands - "Si fundus saltus pastionesque ha-

¹Alf. Dig. xxxii. 60. 3.

²Cato R. R. x.

³Iavol. Dig. xxxiii. 7. 25. 2.

⁴Varro R. R. ii. 1. 18.

⁵Paul. Dig. xxxiii. 7. 18. 8. See Note 7, p. 79. Iavol. Dig. xxxiii. 7. 25. 2. See Note 3.

⁶Ulp. Dig. xli. 1. 44.

⁷Paul. Dig. xxxii. 66. See Chapter I, Note 10, p. 20.

bet, greges pecorum pastores saltuarii....."¹ The direct connection of the saltus with pasturage is made more than once in the Digest.²

Varro recognizes the pastor in charge of animals other than sheep when he suggests that Gauls make good herdsmen (pastores) especially in charge of beasts of burden,³ and when he assigns two such herdsmen to five hundred horses.⁴ In the old prayer for lustration of the fields, pastores are linked with pecua, there probably stock in general.⁵ The pastor is usually mentioned, however, in connection with sheep. Varro is our authority for the ways of the shepherd. He says that shepherds must be sturdy, swift, adaptable.⁶ He suggests that the older shepherds be used with larger flocks, boys with smaller ones, and again that full-grown men be sent to the saltus, while boys and even girls may be used on the estate.⁷ Both in the winter pastures and in summer ones he advises that the shepherd have wife and family with him.⁸ The shepherds drive the flocks from one pasture to another and to market.⁹ They have dogs to assist them.¹⁰ Suetonius suggests that they sheared the sheep, though possibly less skillfully than a tonsor.¹¹ The word pastor appears in an inscription that shows clearly how keenly some Romans felt the error of giving over the best lands to grazing instead of agriculture.¹²

Tonsor Pecorum.--Shearers of sheep also appear in the Digest. They were slaves and are expressly listed as part of the familia rustica.¹³ In the Edict of Diocletian shearers are allowed two denarii for each animal sheared, with living in addition.¹⁴ This indicates either freemen or freedmen working for themselves, or skilled slaves let out to others.

Sheep were sheared once a year except in Hither Spain,

¹Ulp. Dig. xxxiii. 7. 8. 1.

²Scaev. Dig. viii. 5. 20. 1. ut ius compascendi haberent.

³Varro R. R. ii. 10. 4.

⁴Ibid. 10.

⁵Cato R. R. 141. 3.

⁶Varro R. R. ii. 10. 3.

⁷Ibid. 1.

⁸Ibid. 11. 1. 26.

⁹Ibid. 11. 9. 6.

¹⁰Ibid. 3.

¹¹Suet. Tib. 32. See also Cal. Ec. v. 66 ff.

¹²CIL I. 551 (1863); 638 (1893).

¹³Ulp. Dig. xxxiii. 7. 12. 5. See Chapter I, Note 5, p.21.

¹⁴Edict. Diocl. vii. 23.

where the wool was clipped twice a year.¹ What skilled tonsores did at other times than the shearing season we do not know.

We have no information on method of procedure except that there was grouping of sheep that wool of like grade might be collected together, and that a covering was spread on which the shearing took place in order that the wool might be easily collected.²

¹Varro R. R. 11. 11. 6, 8.

²Cal. Ec. v. 67 ff.

CHAPTER VI
OCCUPATIONS CONCERNED WITH SPECIALIZED WORK
OUTSIDE THE HOUSE

In addition to those occupations which have been previously discussed, in which the work was done in or about the house or estate or emanated from it, at least in some cases, a group of occupations occurs in which the humble worker was engaged, centered as a rule not about the house, but about some business apart from the house. Part of these were connected with building trades. Others were connected with various organized businesses.

Aedificator.--A workman who had some connection with building was the aedificator. He appears once in the Digest and seems to have been the builder in charge of the erection of a building. We are told that when he had promised the erection of an apartment building he ought not to make haste by getting in workmen from absolutely everywhere and summoning an undue amount of help, nor yet should he be content with one or two workmen, but should use moderation as a careful builder would. The jurist's words are: "Item qui insulam fieri spopondit, non utique conquisitis undique fabris et plurimis operis adhibitis festinare debet nec rursus utroque aut altero contentus esse, sed modus adhibendus est secundum rationem diligentis aedificatoris."¹ Vitruvius also used the word aedificator with a like meaning.²

The word appears elsewhere with different meanings. In Justinian's Codex it appears in explanation of structor,³ though that is a more usual word in earlier Latin.⁴ In the Codex it seems to mean an ordinary carpenter or builder. In Jerome's comment on Matthew the word is used, explained there by caementarius.⁵ Boethius also uses it in this same sense.⁶ In other cases it is

¹Venul. Dig. xlv. 1. 137. 3.

²Vit. vi. 6. 7. See Blümner, Technologie, III, p. 88.

³Cod. Inst. x. 66 (64). 1.

⁴Cic. Ad. Q. F. ii. 5. 3.

⁵Hier. in Matth. xxi. 42.

⁶Boeth. Diff. Top. M 64, 1184a. (Quoted TLL s. v. aedificator).

used to refer to the man who had the building erected, the owner of the building, rather than the man who actually worked on it.¹

Lapidarius.--Another workman who was connected with building was the lapidarius. In one citation in the Digest in which he appears he is called faber as well. In this case he had a slave, the property of another man, assisting him. A scaffold² fell and killed the slave. The jurist's decision was that the lapidarius, who had tied the scaffold together too carelessly, was liable. Ulpan's words are: "Nam et Mela scripsit, si servus lapidario commodatus sub machina perierit, teneri fabrum commodati, qui negligentius machinam colligavit."³ If the interpretation given for machina is correct, the lapidarius in this case was dressing stones in situ. If, however, the machina in question was a derrick used for hoisting dressed stones into place, the lapidarius was a man who dressed stones to be used in building, elsewhere referred to as lapidarius structor.⁴ The lapidarius is mentioned again in the Digest among those whose work is sufficiently important to render them exempt from more severe public duties.⁵

The lapidarius did not extract stone from quarries. The workman that did that was known as lapicida.⁶ The latter does not appear in the Digest by name, but we have two references to the extraction of stone.⁷ The man that cut the stone into blocks after it was quarried was known as a sector,⁸ or sector serraris.⁹ The next step in the dressing of the stone seems to have been the work of the lapidarius. Opifices lapidarii appear in an inscription.¹⁰ These are probably the opifices to whom Livy refers in a context that suggests that they dressed the stones to be used in building.¹¹ Probably this was the type of lapidarius to whom the second citation refers.

Another type of lapidarius was the maker of tombstones and monuments that we meet in the person of Habinnas in the Cena

¹Cato R.R. i. 4; Aug. De Civ. xxi. 26; Dig. xxxix. 2. 37; Iuv. xiv. 86-95.

²Isid. Orig. xix. 8. 2.

³Ulp. Dig. xiii. 6. 5. 7.

⁴Edict. Dioclet. vii. 2.

⁵Tarr. Pat. Dig. L. 6. 7 (6). See Chapter IV, Note 3, p.68.

⁶Varro L. L. viii. 62. Cf. also lapidicinae.

⁷Ulp. Dig. viii. 4. 13. 1; viii. 5. 8. 5.

⁸CIL VI. 9887.

⁹CIL VI. 9888.

¹⁰CIL XII. 1384.

¹¹Liv. i. 59. 9.

Trimalchionis.¹ That sort of lapidarius does not appear in the Digest. He appears elsewhere in literature under the name lapicida and quadratararius.² There is an inscription in which a body of lapidarii and a body of quadratararii appear.³ This seems to indicate that the work of the lapidarius was distinct from that of the quadratararius. If this is true we should not expect to find the lapidarius carving inscriptions or engraving stones. The evidence that he did so is very frail,⁴ and it has been shown that that was the work of the lapicida or quadratararius.

Tector.--The plasterer who works on the walls of a house appears once in the Digest. A man had obtained the loan of a slave plasterer who fell from the scaffold. The question is raised whether the attendant loss is that of the man whom he was serving or that of the master of the slave. Ulpian's judgment is that if the owner lent the slave with the understanding that he was to work on the scaffold the risk was his; but that, if it was expressly agreed that he work on the ground or floor and he was then put on a scaffold, the risk was that of the man for whom he was working. The latter was true, too, in any case, if the accident happened because the scaffold was tied up carelessly or if the ropes or supports were old. Ulpian's words are as follows:

Nam et si servum tibi tectorem commodavero et de machina ceciderit, periculum meum esse Namusa ait: sed ego ita hoc verum puto, si tibi commodavi, ut et in machina operaretur: ceterum si ut de plano opus faceret, tu eum imposuisti in machina, aut si machinae culpa factum minus diligenter non ab ipso ligatae vel funium perticarumve vetustate, dico periculum, quod culpa contigit rogantis commodatum, ipsum praestare debere.⁵

Two illustrations survive clearly depicting this tector. In one the scaffold is a low one on which ropes are not used.⁶ The other shows the sort of thing that answers the description of the citation.⁷

In the second citation in which the tector appears he

¹Petr. 65. 5. Possibly this sort of lapidarius appears in CIL VI. 8871. There he is a slave.

²Sid Apoll. Ep. 111. 12. 5.

³CIL VI. 9502.

⁴Petr. 58. 7, lapidarias litteras, interpreted in terms of Petr. 29. 1, quadrata littera; CGL III. 201. 8 and 271. 14, lapidarius λ.θοξας.

⁵Ulp. Dig. xlii. 6. 5. 7.

⁶See DS Fig. 6754.

⁷See DS Fig. 4758.

seems to have taken a contract to work on a receptacle full of wine. In working he perforated the receptacle and the wine was lost. He was held responsible. Ulpian says, "Item si tectori locaveris laccum vino plenum curandum et ille eum pertudit, ut vinum sit effusum, Labeo scribit in factum agendum."¹ The receptacle in the case is called laccus. This is probably a variant form of lacus,² influenced by the Greek λάκκος.³ The lacus in this case may have been the vat that received wine from the press,⁴ and may have required such service as a plasterer rendered on cisterns.⁵

Frontinus classes the tector as an opifex,⁶ and both he and Augustine rate him as essential to the ordinary conduct of life.⁷ Varro at an earlier date rated him with the pictor as a workman of the luxury class.⁸ Seneca at a later date concurs in this judgment.⁹

The methods of preparing plaster are discussed by Vitruvius.¹⁰ The particular services that a plasterer was prepared to render are listed by Tertullian.¹¹ He knew how to repair roofs, to put on plaster or stucco, to finish a cistern, and to do various sorts of ornamental work, including incrustations.

Inscriptions of tectores show that many were freedmen.¹²

Balneator.--Other humbler workmen are found connected with various trades and businesses. One of these was the balneator. Two types of balneator appear in the Digest. The first was a slave. In one citation we are told that he was included in a legacy of the instrumenta connected with a bath - "Instrumento balneario legato etiam balneatorem contineri Neratius respondit."¹³ The bath was probably one operated for the use of the public. A second passage gives the reason for including the balneator, namely, that baths could not function without balneatores. Marcianus

¹Ulp. Dig. ix. 2. 27. 35.

²Cato R. R. xxv; Ov. Fast. iii. 558; iv. 888; Col. xii. 18. 3.

³Walde-Hofmann, op. cit. s. v. lacus.

⁴Isid. Orig. xx. 14. 12.

⁵Tert. De Idol. viii.

⁶Frontin. De Aq. 117.

⁷Aug. De Civ. iv. 22.

⁸Varro R. R. iii. 2. 9.

⁹Sen. Ep. 90. 9.

¹⁰Vit. vii. 3. 10.

¹¹Tert. loc. cit.

¹²CIL VI. 5985; IX. 1721; 1722; 3192; X. 6593.

¹³Paul. Dig. xxxiii. 7. 13. 1.

says: "Instrumento balneatorio legato dictum est balneatorem sic instrumento contineri balneario....cum balneae sine balneatoribus usum suum praebere non possint."¹ This slave balneator appears frequently in inscriptions,² but rarely in literature.³ One reference gives the impression that he had the general oversight of the bath.⁴ A scholium on an epistle of Horace's reinforces this impression.⁵

The second type of balneator seems to have been a freeman or a freedman who conducted a bath of his own or took the contract for conducting one. In one case he let his bath to an aedile on contract to serve as a free bath in a municipality for a year. At the end of three months a fire occurred. During the time that service was not rendered he was forced to make a contribution of money. Alfenus says: "Aedilis in municipio balneas conduxerat ut eo anno municipes gratis lavarentur: post tres menses incendio facto respondit posse agi cum balneatore ex conducto, ut pro portione temporis, quo lavationem non praestitisset, pecuniae contributio fieret."⁶ In another citation in which the balneator is not mentioned the bath was let for twenty nummi per year, with an allowance of one hundred nummi for the repair of furnace, pipes, and other parts of the plant. The jurist's judgment was that the balneator must pay the hundred nummi. Labeo said: "Quidam in municipio balineum praestandum annuis viginti nummis conduxerat et ad refectionem fornacis fistularum similiumque rerum centum nummi ut praestarentur ei, convenerat: conductor centum nummos petebat. Ita ei deberi dico."⁷

The balneator was held responsible for the safeguarding of the clothing of bathers if it was left with him, whether there was a fee charged for that service or not. Ulpian says: "Si vestimenta servanda balneatori data perierunt, si quidem nullam mercedem servandorum vestimentorum accepit, depositi eum teneri et dolum dumtaxat praestare debere puto: quod si accepit, ex conducto."⁸ Under the thin disguise of attendants to guard such

¹Marcian. Dig. xxxiii. 7. 17. 2.

²CIL VI. 6243; 7601; 8742; 9102. C 13; 9216.

³Petr. 53. 10; Lampr. Alex. 42. 2.

⁴Lampr. Com. 1. 9.

⁵Porph. on Hor. Ep. 1. 14. 14.

⁶Alf. Dig. xix. 2. 30. 1.

⁷Labeo, Dig. xix. 2. 58. 2.

⁸Ulp. Dig. xvi. 3. 1. 8.

clothing apparently the balneatores had bands of women slaves of such character that the jurist included the balneator in defining the bounds of lenocinium - "Sive balneator fuerit, velut in quibusdam provinciis fit, in balineis ad custodienda vestimenta conducta habens mancipia hoc genus observantia in officina, lenocinii poena tenebitur."¹ The same charge is made by Martial,² and may account for the unsavory reputation that the balneator seems to have had.³

Little further information about the balneator appears. He seems to have had to resort to strenuous measures at times to keep order among his patrons.⁴ The usual fee paid in the time of Cicero⁵ and in the time of Martial⁶ was a quadrans. At the Metal-lum Vipascense the fee for men was a half as, for women one as.⁷ By the time of Diocletian the balneator was allowed two denarii.⁸

Fornacator.--The fornacator also was a slave who was connected with a bath. He appears in one passage in the Digest. The context indicates that the bath that the jurist had in mind was one operated for the use of the public, but not a bath in a private house nor yet one of the great public baths. In a legacy which bequeathed the instrumentum of the bath the fornacator was included. The passage together with the context in which it appears is as follows: "Tabernae cauponiae instrumento legato etiam institores contineri Neratius existimat....instrumento balneario legato etiam balneatorem contineri...."⁹ "Continetur autem et fornicator (sic)."¹⁰ Probably this fornacator had charge of heating the bath.

Urinator.--Another humble workman not connected with the house or estate was the urinator. The citation in the Digest in which urinatores appear depicts clearly the precarious state of commerce in Roman times. Part of a cargo of a ship caught in a storm was jettisoned in order to save the ship. Subsequently the ship and the rest of the cargo went down. This major portion of the cargo was later rescued by urinatores who received wages for

¹Idem, Dig. 111. 2. 4. 2.

²Mart. 111. 93. 14, 15.

³Cic. Pro Cael. 62; Phil. x111. 26.

⁴Plin. N. H. xv111. 156.

⁵Cic. loc. cit.

⁶Mart. 111. 7. 1-3.

⁷CIL II. 5181. 1. 23.

⁸Edict. Diocl. vi1. 76.

⁹Paul. Dig. xxx111. 7. 14.

¹⁰Ibid. 13.

their work. The man whose goods had been jettisoned was entitled to a share of the proceeds from what was thus saved. Afterwards divers rescued his own merchandise and the proceeds from that were his own. The jurist reports the case as follows:

Sed si navis, quae in tempestate iactu mercium unius mercatoris levata est, in alio loco summersa est, et aliquorum mercatorum merces per urinatores extractae sunt data mercede, rationem haberi debere eius, cuius merces in navigatione levandae navis causa iactae sunt, ab his, qui postea sua per urinatores servaverunt, Sabinus aequè respondit. Eorum vero, qui ita servaverunt, invicem rationem haberi non debere ab eo, qui in navigatione iactum fecit, si quaedam ex his mercibus per urinatores extractae sunt.¹

No hint is given as to the place at which the wreck occurred. One assumes that it occurred farther from shore and we have references to divers' plying their trade in deeper water.² The organized corporation of fishermen and divers, however, is expressly mentioned as an organization for the "entire channel of the Tiber,"³ and many inscriptions referring to divers come from Ostia.⁴ The commercial significance of this, too, is clear in view of the fact that cargoes were transferred from larger to smaller craft there and where other rivers flow into the sea with consequent overturning or sinking of the smaller boat.⁵

No reference to divers for fish or sponges appears in the Digest, though both were known.⁶

Machinarius.--Another worker of humble status was the machinarius. He appears in a citation in the Digest with a putator who was trimming trees. We are told that if he kills a person passing by in a place either public or private, and the accident has occurred because he did not use foresight or shout a warning at the right time, he is to be held accountable for the accident.⁷ Clearly the person concerned was manipulating some sort of mechanical contrivance, and not a maker of such a contrivance, the explanation which alone appears in glosses.⁸ A machinarius

¹Call. Dig. xiv. 2. 4. 1.

²Liv. xliv. 10. 3; Man. Astron. v. 434 ff. See also notes of Housman (A. E. Housman, M. Manilii Astronomicon Lib. v (London, 1930)) on v. 431 ff.

³CIL VI. 1872.

⁴CIL XIV. 303; VI. 29700-2.

⁵Call. Dig. xiv. 2. 4; Ulp. Dig. xix. 2. 13. 1, 2.

⁶Plin. N. H. ix. 46. 151.

⁷Paul. Dig. ix. 2. 31. See Chapter V, Note 6, p. 81.

⁸CGL II. 371. 25; III. 308. 54; 500. 16.

may be referred to a second time in a rather unsatisfactory inscription.¹ Blümner recognizes a machinarius (μηχανήκτωρ) who, he says, did the brain work in the quarries of Egypt.² What the contrivance was in the case referred to in the Digest it is impossible to say.

Tonsor Hominum--Another workman who followed a humble trade was the barber. In one citation in the Digest in which there is reference to barbers an incident about one of the class known as circitores is given. The equipment of the itinerant barber consisted of a chair and his instruments. In this case the barber had set up his chair near where a game of ball was going on and he was there shaving a slave. The ball struck the hand of the barber and the throat of the slave was cut. The accident was not fatal. Proculus decided that the fault was the barber's, for working where ball games were usual and pedestrians numerous. Ulpian, however, thought that one that intrusted himself to a barber who had his chair in a dangerous location should blame himself only. Ulpian's report of the incident is as follows:

Item Mela scribit, si, cum pila quidam luderent, vehementius quis pila percussa in tonsoris manus eam deiecerit et sic servi, quem tonsor habebat, gula sit praecisa adiecto cultello: Proculus in tonsore esse culpam: et sane si ibi tondebat, ubi ex consuetudine ludebatur vel ubi transitus frequens erat, est quod ei imputetur: quamvis nec illud male dicatur, si in loco periculoso sellam habenti tonsori se quis commiserit, ipsum de se queri debere.³

The only other certain reference that we have to the itinerant barber is in the Lex Metalli Vipascensis, in which, since all tonsorial work had been let as a concession to conductores, circitores were forbidden to ply their trade in the region of the mines to which the Lex applied.⁴

These barbers as well as the proprietors of the barber shops were probably freedmen⁵ or plebeian freemen,⁶ though no inscription appears that is certainly that of an itinerant barber. This is probably an indication of their poverty and casual way of living. Barbers that had regular shops thronged by the wealthy and centers for the exchange of gossip were in more prosperous circumstances. For this we have evidence both in the time of

¹CIL XI. 634.

²Blümner, Technologie, III, p. 82.

³Ulp. Dig. ix. 2. 11.

⁴CIL II. 5181. 37 ff.

⁵CIL VI. 4474; 9940; 37822.

⁶CIL XII. 4516.

Domitian¹ and for the fourth century.² The fee set for barbers by the Edict of Diocletian, however, was modest (two denarii).³ There was a trade association of barbers in the neighborhood of the Circus Maximus.⁴

In addition to the proprietors of shops and the itinerant barber with his chair we find slaves serving in the houses of the rich, especially, as we are told in a citation in the Digest, for the retinue of slaves in the country and probably for those in the mansions in the city as well.⁵ The proprietors of shops also had slaves, either for the actual work of the trade or for more menial tasks.⁶

The work of the barber was varied. He cut hair, either "over the comb"⁷ or short,⁸ he shaved his customer,⁹ he shaved the head and eyebrows,¹⁰ he curled hair,¹¹ he gave manicures.¹²

We have two sources of knowledge of the instruments of the barber's trade, the statements of Roman writers and the actual instruments or representations of them.¹³ The list includes tweezers (voisellae), a comb (pecten), a mirror (speculum), a curling iron (calamistrum), shears (forfex, axitia),¹⁴ a curved razor (novacula)¹⁵ which had its own curved case,¹⁶ and other razors (culter,¹⁷ cultellus¹⁸). In addition to these he had a heavy cloth (involucre) to put around the shoulders of the customer,¹⁹ a cloth for dusting him off,²⁰ and various depilatory salves to take the place of shaving.²¹ If the customer was cut, sometimes

¹Iuv. i. 24. 25.

²Amm. xxii. 4. 9.

³Edict. Diocl. vii. 22.

⁴CIL VI. 31900.

⁵Ulp. Dig. xxxiii. 7. 12. 5. See Chapter I, Note 5, p. 21. See also CIL VI. 4359; 6366; Mart. vi. 52. 1-4.

⁶CIL XV. 7172.

⁷Plaut. Capt. 268; Cur. 577.

⁸DS Fig. 3174.

⁹Plin. N. H. xxix. 114; Mart. iii. 74. 1-4; xiv. 36.

¹⁰Petr. 103. 1-5.

¹¹Plaut. Cur. 577-8; Mart. ii. 36.

¹²Plaut. Aul. 312-3; Hor. Ep. i. 7. 51.

¹³DS Fig. 5334.

¹⁴Plaut. Cur. 577-8; Mart. vii. 95. 7-13.

¹⁵Petr. 103; DS Fig. 5333.

¹⁶Mart. xi. 58. 9, 10.

¹⁷Cic. Of. ii. 7. 25; Val. Max. iii. 2. 15.

¹⁸Ulp. Dig. ix. 2. 11. See Note 3, p. 94.

¹⁹Plaut. Capt. 267-9.

²⁰See Note 14.

²¹Mart. iii. 74. 1-4.

cobwebs were applied.¹ Instruments were sharpened on whetstones moistened with oil or saliva.²

¹See Note 9, p. 95.

²Plin. N. H. xxxvi. 164-5.

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